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Condensed Transcript

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

METSO PAPER, USA, INC.,

Plaintiff

vs.

GENERAL ELECTRIC
COMPANY,

Defendant

CIVIL ACTION NO.

3:CV-08-47

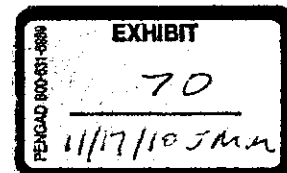
DEPOSITION OF

DAVID KUZMICK

February 11, 2009
10:47 a.m.

Metso Paper
987 Griffin Pond Road
Clarks Summit, Pennsylvania

Reported by: Andrea L. Malkin, Professional Reporter



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Telephone:

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101 Marietta Street
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February 11, 2009

| 1 | | 3 | |
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| IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA | | INDEX TO WITNESSES | |
| METSO PAPER, USA, INC., Plaintiff | CIVIL ACTION NO. 3:CV-08-47 | 1 | |
| vs. | | 2 | |
| GENERAL ELECTRIC COMPANY, Defendant | | 3 | WITNESS PAGE |
| DEPOSITION OF DAVID KUZMICK Taken in the offices of Metso Paper, 997 Griffin Pond Road, Clarks Summit, Pennsylvania, on Wednesday, February 11, 2009, commencing at 10:47 a.m. before Andrea L. Malkin, Professional Reporter. | | 4 | |
| | | 5 | DAVID KUZMICK |
| | | 6 | |
| | | 7 | By Mr. Cooper 4 |
| | | 8 | |
| | | 9 | By Ms. Kaminsky 64 |
| | | 10 | |
| | | 11 | |
| | | 12 | INDEX TO EXHIBITS |
| | | 13 | |
| | | 14 | PAGE |
| | | 15 | EXHIBIT DESCRIPTION MARKED |
| | | 16 | 8 Photograph 14 |
| | | 17 | 9 Photograph 14 |
| | | 18 | 10 Photograph 14 |
| | | 19 | 11 Photograph 14 |
| | | 20 | 12 Photograph 14 |
| | | 21 | 13 Photograph 14 |
| | | 22 | 14 Photograph 14 |
| | | 23 | |
| | | 24 | |
| | | 25 | |
| 2 | | 4 | |
| 1 APPEARANCES: | | 1 DAVID KUZMICK, having first been | |
| 2 | | 2 duly sworn, testified as follows: | |
| 3 CLAUSEN MILLER, PC | | 3 | |
| 4 By: DANIELLE SULLIVAN KAMINSKI, ESQUIRE | | 4 EXAMINATION | |
| 5 One Chase Manhattan Plaza | | 5 | |
| 6 39th Floor | | 6 BY MR. COOPER: | |
| 7 New York, NY 10005 | | 7 Q. Could you state your name for the record, | |
| 8 (212) 805-3948 | | 8 sir. | |
| 9 -- For the Plaintiff | | 9 A. Dave Kuzmick. | |
| 10 | | 10 Q. Mr. Kuzmick, my name is Tom Cooper. I'm an | |
| 11 SMITH & DUGGAN LLP | | 11 attorney for General Electric. And we're here | |
| 12 By: THOMAS G. COOPER, ESQUIRE | | 12 today to find out what you know about the fire and | |
| 13 Lincoln North | | 13 other things related to the claims that have been | |
| 14 55 Old Bedford Road | | 14 made against GE in connection with the fire. | |
| 15 Lincoln, MA 01773-1125 | | 15 The court reporter here is making a | |
| 16 (617) 228-4446 | | 16 verbatim record of each of the questions that I ask | |
| 17 -- For the Defendant | | 17 and each of the answers that you give in the | |
| 18 | | 18 deposition. So you need to wait until I completely | |
| 19 | | 19 finish asking the question before you start your | |
| 20 | | 20 answer. And I'll try to make sure you finish | |
| 21 | | 21 answering before I start the next question. | |
| 22 | | 22 Where do you live, Mr. Kuzmick? | |
| 23 | | 23 A. Clarks Summit, Pennsylvania. | |
| 24 | | 24 Q. What's your address there? | |
| 25 | | 25 A. 121 South Abington Township. | |



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5

1 Q. Okay. What's your job here at Metso Paper?

2 A. Plant maintenance.

3 Q. How long have you had that job?

4 A. Seven years.

5 Q. Do you remember the day that I came here
6 after the fire? Do you remember that?

7 A. Yes.

8 Q. I was here with a photographer. I think
9 they had already started cleaning up the
10 compounding room. Here's one of the photos that we
11 took. I just marked it as Exhibit 8. I'll just
12 tell you that it was taken in the room where the
13 fire occurred. I don't know if you can recognize
14 it.

15 A. I do.

16 Q. They had started painting I think already
17 when we were there. Some of the fixtures or at
18 least one of the fixtures in that picture has a
19 lens on it. Do you see that?

20 A. Yes.

21 Q. There's one fixture where the bulb is not
22 burning; correct?

23 A. Right.

24 Q. Can you tell whether these other two that
25 are burning that you -- the bulbs are lit in this

6

1 photo, can you tell if they have lenses on them?

2 A. I can't no.

3 Q. Is it correct that in that room some of the
4 fixtures have lenses of them and some of them did
5 not?

6 A. Yes.

7 Q. Why was that?

8 A. When we purchased lamps for the main bay of
9 the building, we purchased a few lamps for this
10 side.

11 Q. Okay. When you say, "lamps," what do you
12 mean by that?

13 A. Lamps, fixtures.

14 Q. Okay. I usually use the term lamp to mean
15 a light bulb. Maybe we should -- and I use fixture
16 to mean the fixture, not use lamp to mean that.
17 But just so we're using the same terminology, why
18 don't we call these fixtures, the things you put
19 the light bulbs into, and we can call them light
20 bulbs, if you want. Would you call it a light
21 bulb, one of the metal halide bulbs or a bulb?

22 A. I'd call it a lamp.

23 Q. You'd call it a lamp. You're really going
24 to mix us up, now. Let's go back to your last
25 answer. I was asking you why did you have some of

7

1 the fixtures in the rubber compounding room with
2 lenses and some without lenses. Could you just say
3 that again and explain what the reason was. Now
4 that I've taken us off on that little bit of --

5 A. Well when we relit the entire main bay we
6 looked at this side of the building and we looked
7 at a few areas that we thought needed more
8 lighting. So we put in I think it was three 750
9 watt lamps, fixtures.

10 Q. Okay. So you had the old fixtures in there
11 and you had three new ones in that room?

12 A. Right.

13 Q. Three was your memory, roughly?

14 A. This room, I'm not sure. I think there was
15 only one honestly.

16 Q. Oh, okay.

17 A. I cannot remember that.

18 Q. There was at least one and possibly more
19 than one in that particular room of the new
20 fixtures?

21 A. Yes.

22 Q. And that was around 2002?

23 A. Yes.

24 Q. Were you here on the day of the fire?

25 A. I came up. I was called.

8

1 Q. Okay.

2 A. When it was in progress.

3 Q. Did you come into the building when the
4 fire was burning?

5 A. No.

6 Q. The fire department was already here when
7 you got here?

8 A. Yes.

9 Q. How long did it take them roughly to put
10 the fire before they allowed you to enter the
11 building?

12 A. I'd have to say a good hour before we were
13 allowed to enter the building. Maybe a little
14 longer than that. It was mainly smoke.

15 Q. Mainly smoke that was keeping you from
16 getting back in?

17 A. Yes.

18 Q. What did you do when you were able to enter
19 the building?

20 A. Evaluated the damage.

21 Q. Where did the damage occur?

22 A. Just under the lamp on a holding rack,
23 materials rack.

24 Q. When you came back into the building, were
25 the lights still on?



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9

- 1 A. No.
- 2 Q. Why were they not on? How did they end up
- 3 being off?
- 4 A. The power company cut the lighting.
- 5 Q. They cut all the power to the building?
- 6 A. I can't remember.
- 7 Q. But at any rate, there was no lights on in
- 8 the mill compounding room when you first got back
- 9 into the building; is that right?
- 10 A. Correct.
- 11 Q. And was there any natural light that was
- 12 able to get into that room? I don't know if there
- 13 are other skylights or exterior doors or something
- 14 that went up to the ceiling.
- 15 A. The door may have been open.
- 16 Q. Is there an exterior door in that room?
- 17 A. Yes.
- 18 Q. Was that your only light source when you
- 19 were examining the damage initially?
- 20 A. Yes.
- 21 Q. And describe for me the damage. Other than
- 22 smoke damage, that is the damage caused directly by
- 23 the fire burning, direct fire damage, what did you
- 24 find both then and later on when you had lights
- 25 again?

10

- 1 A. It looked like a few pallets of material,
- 2 compounding material was charred and burned.
- 3 Q. I have a blow up of a section of the
- 4 photograph we took of the floor plan when we were
- 5 here. And earlier witnesses have identified this
- 6 Exhibit 3, the first page as the rubber compounding
- 7 room; does that look correct to you where the fire
- 8 occurred?
- 9 A. Yes.
- 10 Q. Do you use that term also, rubber
- 11 compounding room? That's what one person say they
- 12 called it.
- 13 A. Yes.
- 14 Q. Okay. Where do you remember the actual
- 15 fire damage being located within this room?
- 16 A. Right in the middle of that. (Indicating.)
- 17 Q. You're pointing to the middle section of an
- 18 illustration of a three-rack system; correct?
- 19 A. Yes.
- 20 Q. And you remember it being in the middle
- 21 rack?
- 22 A. Yes.
- 23 Q. Do you remember it also being in the rack
- 24 section closer to the training room?
- 25 A. Yes.

11

- 1 Q. Do you think it was in both racks then?
- 2 A. Yes.
- 3 Q. What about the end one?
- 4 A. I can't remember.
- 5 Q. Did you do an inventory of the material
- 6 that was damaged?
- 7 A. I didn't.
- 8 Q. Who did that?
- 9 A. Kevin Kalmanowicz.
- 10 Q. What was the material on the rack that was
- 11 damaged?
- 12 A. Various rubbers and compounding material,
- 13 powders, chemicals.
- 14 Q. Are those materials that were on the
- 15 section of the rack that was burned are they in
- 16 some kind of containers?
- 17 A. No. They're on open skid, rubber.
- 18 Q. The rubber would just be blocks of rubber
- 19 piled up on a pallet, for example?
- 20 A. Yes.
- 21 Q. And the compounding materials, is that true
- 22 for them also, they were just open materials
- 23 sitting on a pallet?
- 24 A. Most of that stuff is in bags.
- 25 Q. It's in bags and is it a powder-type

12

- 1 material mostly?
- 2 A. Mostly.
- 3 Q. Is any of it in cardboard boxes?
- 4 A. It may be.
- 5 Q. Is any of it in metal containers?
- 6 A. There may be something there.
- 7 Q. How many levels did the rack system have
- 8 here where the fire occurred?
- 9 A. I can't remember actually.
- 10 Q. Do you still have racks in that room now?
- 11 A. Yes.
- 12 Q. Was it the same type of system now that you
- 13 had before?
- 14 A. No. It was replaced after the fire.
- 15 Q. But is it the same sort of configuration as
- 16 it was before?
- 17 A. Yes.
- 18 Q. You're not sure how many levels it has,
- 19 though?
- 20 A. I think there's three.
- 21 Q. So, your best memory?
- 22 A. Yes.
- 23 Q. What was on the top level of the rack on
- 24 the day of the fire?
- 25 A. I don't know.



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13

- 1 Q. Is there somebody that would know that?
- 2 A. There may be.
- 3 Q. Do you know who would?
- 4 A. Well, maybe looking at a picture.
- 5 Q. Well, nobody has given me any pictures.
- 6 Did you take any pictures?
- 7 A. Yes.
- 8 Q. Did you take pictures in the rubber
- 9 compounding area that showed the fire damage?
- 10 A. Yes.
- 11 Q. Did you use a digital camera, or film
- 12 camera, or what?
- 13 A. Digital.
- 14 Q. Do you still have the pictures?
- 15 A. Yes.
- 16 Q. Has anyone asked you to give them a copy?
- 17 A. Not that I can recall.

18

19 MR. COOPER: Off the record.

20

21 (A discussion was held off the record.)

22

23 BY MR. COOPER:

- 24 Q. Mr. Kuzmick, we took a break for a few
- 25 minutes so you could get some of the photos that

14

- 1 you have on your computer, some of which you took.
- 2 Did you take all of them?
- 3 A. I didn't take any of them.
- 4 Q. Okay. Who took the photos, do you know?
- 5 A. Jim Kopp.
- 6 Q. He works here or worked here at the time?
- 7 A. Yes. He works here.
- 8 Q. Did he take all of them as far as you know?
- 9 A. As far as I know.
- 10 Q. Did you ask him to take pictures for you?
- 11 A. He's the safety officer.
- 12 Q. He did it on his own?
- 13 A. Yes.

14

15 (Exhibits 8 through 14 were marked

16 for identification.)

17

18 BY MR. COOPER:

- 19 Q. And I just put some exhibit sticker numbers
- 20 on here. Let me show you some of these and ask you
- 21 about them. Exhibit 9, is that the rack where the
- 22 fire occurred?
- 23 A. Yes.
- 24 Q. And could you describe for me what you're
- 25 seeing in the photo?

15

- 1 A. A lot of burnt material.
- 2 Q. Can you see the training room in that
- 3 photo?
- 4 A. Yes.
- 5 Q. And could you just point it out for me?
- 6 A. Right there. (Pointing.)
- 7 Q. That wall that looks like an air
- 8 conditioning unit?
- 9 A. Yes.
- 10 Q. That's in the training room wall?
- 11 A. Yes.
- 12 Q. If you looked at Exhibit 3, could you tell
- 13 me where the photographer was standing on that
- 14 exhibit?
- 15 A. In the aisle way.
- 16 Q. I see in the photo there's what look to me
- 17 like drums that are standing here in front of the
- 18 training room; is that what I'm seeing?
- 19 A. Yes.
- 20 Q. Those are metal drums that have some type
- 21 of material?
- 22 A. Yes.
- 23 Q. That's part of the compounding materials of
- 24 one sort or another?
- 25 A. Apparently.

16

- 1 Q. Are you not sure about that?
- 2 A. I couldn't be totally sure what was in
- 3 those drums.
- 4 Q. Did the rack system abut right up against
- 5 the training room or within a few inches of it?
- 6 A. I can't remember the actual distance.
- 7 Q. The reason I ask, in the drawing we have in
- 8 this floor plan, Exhibit 3, it looks like go where
- 9 they are very close to the wall. In the photo, it
- 10 looks to me like there's drums between the end of
- 11 the rack and the training room wall. Does that
- 12 sound correct to you?
- 13 A. It does. That's correct.
- 14 Q. So it might have been two or three feet, at
- 15 least?
- 16 A. I think so.
- 17 Q. And looking at Exhibit 10, another one of
- 18 the photos you retrieved, over in the far right
- 19 side we're seeing some piece of equipment. Is that
- 20 a lift or something?
- 21 A. Yes. It's a type of boom?
- 22 Q. A boom? Is that something that somebody
- 23 can ride in and get up to a higher level?
- 24 A. Yes.
- 25 Q. Was that where it was located at the time



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| <p style="text-align: center;">17</p> <p>1 of the fire or do you think that was moved there</p> <p>2 after the fire?</p> <p>3 A. That was moved there after the fire.</p> <p>4 Q. All right. Looking at Exhibit 10 in the</p> <p>5 racks that are closest, the section that is closest</p> <p>6 to the training room, down on the floor it appears</p> <p>7 there's a pallet with some material sitting on it;</p> <p>8 is that right?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know what the material is that's</p> <p>11 sitting there on the pallet on the floor?</p> <p>12 A. Looks like rubber.</p> <p>13</p> <p>14 MS. KAMINSKY: Is that photo of the</p> <p>15 same perspective?</p> <p>16 MR. COOPER: No, it's the other</p> <p>17 side.</p> <p>18 MS. KAMINSKY: Okay.</p> <p>19</p> <p>20 BY MR. COOPER:</p> <p>21 Q. And above that area with the rubber, again</p> <p>22 in the section of racks that's closest to the</p> <p>23 training room on the rack above the floor level it</p> <p>24 looks -- well the only one that you can see in this</p> <p>25 photo -- it looks like there is a pallet at that</p> | <p style="text-align: center;">19</p> <p>1 MS. KAMINSKY: It does look like it</p> <p>2 goes higher.</p> <p>3</p> <p>4 BY MR. COOPER:</p> <p>5 Q. Let me show you Exhibit 12, another one of</p> <p>6 the photos you retrieved. What's shown in that</p> <p>7 photo?</p> <p>8 A. I think they are mainly looking at the soot</p> <p>9 on the ceiling here.</p> <p>10 Q. I see there is a light shown in that</p> <p>11 picture or a fixture shown in that picture;</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. And that has a lens cover on it; correct?</p> <p>15 A. Correct.</p> <p>16 Q. What's the purpose of having a lens cover</p> <p>17 on those fixtures?</p> <p>18 A. They were low bay fixtures.</p> <p>19 Q. Low bay fixtures?</p> <p>20 A. Yes.</p> <p>21 Q. So what's the purpose of the cover on them?</p> <p>22 A. Just the design of that particular fixture.</p> <p>23 Q. Okay. So you're not sure why they actually</p> <p>24 have one on there? The other ones were open.</p> <p>25 A. The open ones were new ones that were</p> |
| <p style="text-align: center;">18</p> <p>1 location also; right?</p> <p>2 A. Yes.</p> <p>3 Q. And what material was on that pallet?</p> <p>4 A. I don't know.</p> <p>5 Q. Was there material stored at any of the</p> <p>6 higher level than what we can see in Exhibit 10 in</p> <p>7 this first section, or is that the highest level</p> <p>8 you know?</p> <p>9 A. It looks like the rack has three layers</p> <p>10 there.</p> <p>11 Q. Well, some of them have three levels.</p> <p>12 Would you agree the sections are not all identical?</p> <p>13 A. Right.</p> <p>14 Q. Am I correct that if we went through these</p> <p>15 photos, if I asked you in detail about 9, 10 and</p> <p>16 11, other than the rubber you identified, would you</p> <p>17 be able to identify what material was on this rack</p> <p>18 system where the actual burning occurred prior to</p> <p>19 the fire?</p> <p>20 A. No.</p> <p>21 Q. Exhibit 11 also shows a photo of the rack</p> <p>22 system, actually taken from the same side, but it's</p> <p>23 a little different view than Exhibit 10; correct?</p> <p>24 A. Correct.</p> <p>25</p> | <p style="text-align: center;">20</p> <p>1 installed.</p> <p>2 Q. What I'm getting at is, if you know why</p> <p>3 some fixtures have lenses on them and some don't.</p> <p>4 Do you know why?</p> <p>5 A. They're recommended for that particular</p> <p>6 fixture.</p> <p>7 Q. Okay. Looking at Exhibit 13, that's also</p> <p>8 one of the photos that you retrieved. And it take</p> <p>9 it we're looking at the hole in the roof; correct?</p> <p>10 A. Yes.</p> <p>11 Q. And that was put there by the fire</p> <p>12 department?</p> <p>13 A. Yes, it was.</p> <p>14 Q. As part of their firefighting efforts; is</p> <p>15 that right?</p> <p>16 A. Yes.</p> <p>17 Q. They just didn't show up one day and start</p> <p>18 cutting apart your building?</p> <p>19 A. Correct.</p> <p>20 Q. If you look at Exhibit 3 that shows the</p> <p>21 floor plan for that room -- let me back up. Is the</p> <p>22 hole in the rubber compounding room area, the roof</p> <p>23 hole?</p> <p>24 A. Yes.</p> <p>25 Q. Why don't you take your pen and draw a</p> |

February 11, :

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|---|--|
| <p style="text-align: center;">21</p> <p>1 rectangle where the roof hole is located, the roof 2 hole on Exhibit 3. 3 A. (Drawing.) 4 Q. It looks to me like one of the fixtures -- 5 well, how many fixtures can you see in Exhibit 13 6 suspended from the ceiling? 7 A. Three. 8 Q. And how many of them have lenses and how 9 many are open? 10 A. One is open, two have lenses. 11 Q. So it's the one on the right that's an open 12 fixture there? 13 A. Yes. 14 Q. And where would that be located on Exhibit 15 3. 16 A. Right there. (Pointing.) 17 Q. Was that directly above the racks then or 18 was it a little bit offset? 19 A. It was offset. 20 Q. Can you draw on Exhibit 3 a circle 21 indicating where that open fixture we see in 22 Exhibit 13 was located. 23 A. (Drawing.) 24 Q. Okay. Why don't you put your initials 25 right next to that circle.</p> | <p style="text-align: center;">23</p> <p>1 to the racks prior to the fire, immediately prior 2 to the fire? 3 A. I don't know. 4 Q. Was there any rule or practice or custom 5 here that said you should not store material on the 6 floor outside of the racks and immediately around 7 them? 8 A. I'm not sure if that's written -- 9 documented. 10 Q. Do you think there is an unwritten rule to 11 that effect? 12 A. I couldn't tell you. 13 Q. Okay. Who is the person basically in 14 charge of running and operating the compounding 15 room or was at the time? 16 A. Kevin Kalmanowicz. 17 Q. Okay. Let's go back to 2002. And from 18 looking at the various documents that we've gotten 19 it looks like there was some reason why the company 20 in 2002 decided to review its lighting system in a 21 portion of the building; is that true? 22 A. Yes. 23 Q. And is that something you were responsible 24 for doing on behalf of the company? 25 A. Yes.</p> |
| <p style="text-align: center;">22</p> <p>1 A. (Witness complies.) 2 Q. Okay. What are we looking at in that 3 photo? 4 A. That's a calibration room. 5 Q. Where is that in relationship to the 6 compounding room? It looks like we're looking 7 through a doorway into it; is that right? 8 A. Yeah. There's a doorway right here. 9 (Pointing.) 10 Q. Let's use this one. We've got another 11 picture here, number 14. It's another view of the 12 rack system. I think we can see a little -- on the 13 rack that's closest to the training room wall down 14 in the area where you identified rubber down on the 15 floor, that first section, it looks like there's 16 three levels to the rack system; correct? 17 A. Correct. 18 Q. Was there material stored in all three 19 levels at the time of the fire? 20 A. Yes. 21 Q. Do you know what was on the top level of 22 this first rack closest to the training room in 23 Exhibit 14? 24 A. No. 25 Q. Was there material stored on the floor next</p> | <p style="text-align: center;">24</p> <p>1 Q. What was the reason for undertaking the 2 review? 3 A. Well, the system up there was antiquated, 4 old. We were looking at improvement of efficiency. 5 Q. What kind of lighting system existed in the 6 plant before the upgrade, let's say in the main bay 7 and in the training room -- or excuse me, in the 8 mill compounding area? 9 A. Well, in the main bay I think there was 450 10 watt metal halide lamps, bulbs. 11 Q. Had you had any problems with them? 12 A. Yeah. They were old and wearing out. 13 Q. What do you mean they were wearing out? 14 What would happen? 15 A. They were starting to make noise. 16 Q. Had any of the fixtures failed so that they 17 didn't work any more? 18 A. I'm sure there was. 19 Q. Was that part of your reason for wanting to 20 upgrade the lighting system or replace some of 21 them? 22 A. Yes. 23 Q. Were the -- on the old lights in some of 24 the pictures we've seen some that have these 25 plastic lenses on the bottom, the light fixtures.</p> |



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25

1 Was that true for all of the light fixtures in the
2 main bay and in the compounding room before the
3 change?

4 A. In the main bay they were all open lamps.

5 Q. Oh, they were open in the main bay?

6 A. Yes.

7 Q. In the compounding room were they all
8 enclosed prior to the upgrade?

9 A. No.

10 Q. Let's go back to Exhibit 8. You identified
11 one lamp here that was an enclosed fixture. And
12 that has a lens on it; correct?

13 A. Correct.

14 Q. And that's in the compounding room?

15 A. Correct.

16 Q. And so when I say enclosed, I'm talking
17 about these fixtures that have a lens on the bottom
18 of them. Do you understand that?

19 A. Yes.

20 Q. And prior to your upgrade in 2002, were all
21 of the fixtures in the compounding room enclosed
22 like the one we see in Exhibit 8?

23 A. No.

24 Q. Some of them were open fixtures?

25 A. Yes.

26

1 Q. And did those also use 400 watt metal
2 halide lamps?

3 A. I'm not sure of the wattage.

4 Q. Did all of them use metal halide lamps?

5 Before you answer let me remind you of something.
6 I also see in a reference somewhere that you had
7 high pressured sodium in some of the fixtures.

8 A. That's what I -- there may have been some
9 sodium mixed in possibly. We're talking four years
10 now. There may have been one or two sodiums.

11 Q. Of the ones that were metal halide, were
12 they all in closed fixtures?

13 A. No.

14 Q. Why was there a mixture of these different
15 types of fixtures in that one area; do you know?

16 A. No.

17 Q. Just over the years people put in different
18 fixtures?

19 A. Yes.

20 Q. Had you been at the company or involved in
21 the decision to put in any of the old fixtures that
22 were there prior to the 2002 changes?

23 A. No.

24 Q. Prior to the 2002 changes, did you have a
25 schedule in which you replaced the lamps in the

27

1 plant in which you did group re-lamping, as opposed
2 to go change it when it burns out?

3 A. I wasn't in the departments at that time.

4 Q. What were you doing at that time?

5 A. I was supervising the finishing department.

6 Q. Okay. When did you start in the
7 maintenance department?

8 A. 2002.

9 Q. So right around the time you started is
10 when you reviewed the light fixture situation?

11 A. Yes.

12 Q. And when you started, did you learn or
13 become aware of whether there was a schedule by
14 which lamps were changed out?

15 A. Yes.

16 Q. And was there a schedule?

17 A. For this particular part of the building,
18 no. I'd have to say no.

19 Q. There was in other parts, though?

20 A. Yes.

21 Q. Can you describe to me what was the
22 schedule that was in place?

23 A. I don't think it was a documented schedule.
24 I don't remember right now.

25 Q. Well you said there was some kind of

28

1 schedule, that's what you recall, is that right,
2 when you first started the maintenance job?

3 A. Not documented.

4 Q. Well, okay. I'm not necessarily talking
5 about documented. But I thought you said there was
6 a schedule, whether documented or it was just a
7 custom and practice here.

8 A. What I can remember, the lumens of a light
9 bulb was measured.

10 Q. Right.

11 A. And that's when we decided on changing it.

12 Q. Changing to the new fixtures?

13 A. No. Doing the complete re-lamping.

14 Q. Okay. The light level got too low then you
15 would re-lamp?

16 A. And we only did that one part of the
17 building.

18 Q. Which part of the building was that?

19 A. The mechanical repair area.

20 Q. Did you measure the lumen levels in other
21 parts of the building at the same time?

22 A. Not that I can recall. I was not involved
23 in it.

24 Q. How did you go about evaluating what to do
25 with your lighting system when you started that



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29

1 project back in 2002?

2 A. Through Friedman Electric conversation.

3 Working up a quotation or a system for our plant.

4 Q. So you contacted Friedman Electric and

5 asked for help?

6 A. Yes.

7 Q. And you have a relative that works there;

8 true?

9 A. True.

10 Q. And who is that?

11 A. Andy Kuzmick.

12 Q. Is he the guy you called?

13 A. I think so. He may have called on me. I

14 can't remember.

15 Q. And then so you started talking to Andy

16 about the possibility of changing or adding light

17 fixtures in your building?

18 A. Yes.

19 Q. Let me just show you what we marked as

20 Exhibit 1. You'll notice also -- in case you're

21 wondering -- that there's, down in the lower right,

22 there's Metso followed by numbers, which my office

23 added these numbers. So each page has it's own

24 individual number. So we can refer to the page

25 numbers if we want to by the individual pages. And

30

1 this is just the order I received them. I can't

2 say for sure whether anything else goes with them

3 or not. I don't think so.

4 Exhibit 1. are you familiar with that

5 document?

6 A. Yes.

7 Q. Explain to me what it is.

8 A. That's the main bay of our shop.

9 Q. What are all these dots on there?

10 A. They were the lamps, the old lamps.

11 Q. Did somebody at Metso go through the

12 building and make this little diagram showing where

13 all the fixtures were located?

14 A. Yeah. I had one of my maintenance guys do

15 this.

16 Q. What's on page two of Exhibit 1?

17 A. That's an area down in the back of the shop

18 to the right of the main bay.

19 Q. Okay. So if you're the guy who did the

20 survey, the first page shows the main area and then

21 the second page is another in the building?

22 A. Yes.

23 Q. What's the third page?

24 A. A vulcanizing area.

25 Q. Also showing the fixtures in that area?

31

1 A. Yes.

2 Q. Go back to page two if you would for a

3 second. It looks like some of them I see a circle

4 around the dot and then I see some of them have the

5 word, "out," next to them. Do you know what the

6 circle was for?

7 A. No.

8 Q. What does out mean?

9 A. Apparently the lamp was out.

10 Q. And then on some of them also on page two I

11 see the letters MH next to the fixture. What does

12 that indicate to you?

13 A. Metal halide.

14 Q. Do you think that the ones where it doesn't

15 say, MH were something other than metal halide?

16 A. Possibly.

17 Q. Maybe the old sodium lamps?

18 A. Possibly.

19 Q. Does that seem consistent with what you can

20 remember about the lighting in that area?

21 A. Yes.

22 Q. On page two also down near the lower left

23 of the diagram the word transformer appears. Do

24 you know what that indicates?

25 A. Yes. That's a main power transformer for

32

1 that portion of the plant.

2 Q. And I see numbers by many, but not all of

3 the fixtures. What do the numbers indicate?

4 A. I think that was the tally of how many

5 lamps were in that area.

6 Q. Is page four the same thing?

7

8 MS. KAMINSKY: The numbers are

9 different on the second page.

10 MR. COOPER: Oh, yeah. Somebody

11 added numbers. Good point.

12 MS. KAMINSKY: Can I just ask, when

13 was this prepared?

14 THE WITNESS: A long time ago.

15 MS. KAMINSKY: Before the lamps were

16 changed in 2002?

17 THE WITNESS: Yes.

18

19 BY MR. COOPER:

20 Q. This was sort of a data gathering that you

21 did in order to assess what your needs were?

22 A. Yes.

23 Q. And the very last page is the metal repair

24 area portion of the plant; is that right?

25 A. Yes.



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33

- 1 Q. Was there a diagram prepared for the
2 compounding room?
3 A. Yes.
4 Q. Where is that shown?
5 A. Mill room.
6 Q. So, that's on page number Metso 51?
7 A. 51, yes.
8 Q. And also 52.
9 A. Yes.
10 Q. It looks like on page 51 this was divided
11 into three sections. Which section is the area
12 where the fire occurred?
13 A. Where it says, storage and mixing.
14 Q. Where is the training room? It doesn't
15 seem to be shown on here?
16 A. It's on the left-hand side up against this
17 wall.
18 Q. Okay. So that room actually would have
19 been constructed sticking out into the room?
20 A. Yes.
21 Q. And the storage really should be pushed
22 over a little bit to the right from where it is
23 shown on the diagram; correct?
24 A. Yes.
25 Q. After this was prepared, what did you do

34

- 1 with it? What did you do with this exhibit or
2 document after it was prepared?
3 A. I gave this to the vendor and they did an
4 energy study.
5 Q. Meaning, you gave it to Andy Kuzmick at
6 Friedman Electric?
7 A. Yes.
8 Q. And he did some kind of analysis of your
9 lighting system?
10 A. Yes.
11 Q. Let me show you Exhibit 2. Have you seen
12 that document before?
13 A. Yes.
14 Q. What is that document?
15 A. It's a lighting alternative program.
16 Q. Where did you get it?
17 A. From Andy Kuzmick.
18 Q. Is this essentially the study that he did
19 and gave back to you?
20 A. Yes.
21 Q. Did he come over here to the plant to see
22 it in connection with preparing his analysis?
23 A. Yes.
24 Q. How many visits did he make?
25 A. I can't remember.

35

- 1 Q. Did he walk around the whole plant?
2 A. Yes.
3 Q. Did he go into the mill compounding room
4 during his visit?
5 A. Yes.
6 Q. Did he take notes on what he was observing?
7 A. Yes.
8 Q. Did he take photographs?
9 A. I can't remember.
10 Q. And you said you give him a copy of Exhibit
11 1; right?
12 A. Yes.
13 Q. Did you give him anything else?
14 A. I can't remember anything else that was
15 given to him.
16 Q. So one of your purposes was to see if you
17 could save money on your lighting energy cost; is
18 that right?
19 A. Correct.
20 Q. So part of what he was doing was trying to
21 give an analysis of how much electricity was
22 costing you for your lighting system and compare it
23 to what he could offer you?
24 A. Yes.
25 Q. And he came back with a recommendation that

36

- 1 is basically contained in Exhibit 2?
2 A. Yes.
3 Q. Did you have a meeting with him at which he
4 presented this and sort of explained what all this
5 meant?
6 A. Yes.
7 Q. How many meetings did you have?
8 A. I can't remember.
9 Q. Do you remember there being more than one
10 of which he sort of made his presentation?
11 A. I can't remember.
12 Q. Did you take notes at the meetings?
13 A. I can't remember that either.
14 Q. Do you still have some kind of file in
15 connection with the lighting change from 2002? And
16 I ask that because I mean, apparently you came up
17 with these documents. Somebody asked you to find
18 these, and you came up with these.
19 A. Yes.
20 Q. Did you have a file or folder on the
21 subject?
22 A. Yes.
23 Q. And did you give everything in that file
24 over to the lawyers in this case?
25 A. I think so.



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37

1
2 MR. COOPER: Okay. I'm just asking
3 if you would verify that too, along with
4 you giving me the photos.

5 MS. KAMINSKY: Just to be clear, you
6 want verification that all of the
7 documents related to the 2002 light change
8 were provided?

9 MR. COOPER: Yes. The photos, if
10 there were any. Any notes -- anything
11 like that.

12
13 BY MR. COOPER:

14 Q. So what did Andy Kuzmick recommend that
15 Metso do to improve its lighting system?

16 A. He recommended this 750 watt pulse starting
17 system.

18 Q. And he recommended a specific fixture in a
19 specific light bulb that you use in that fixture
20 for your needs; is that true?

21 A. I don't see it here on this proposal. I
22 see the Hubbell High Bay.

23 Q. The proposal A, right, has the Hubbell
24 Sonar 50 watt pulse start high bay fixtures?

25 A. Yes.

38

1 Q. That was his recommendation to you; is that
2 correct?

3 A. Yes.

4 Q. And he did sort of the economic analysis of
5 what it would cost to buy it and put it in and what
6 it would cost for your lighting needs after you put
7 it in?

8 A. Yes.

9 Q. Did you also -- part of this system assume
10 that you were going to remove some of the existing
11 fixtures?

12 A. Yes.

13 Q. How many existing fixtures did you remove
14 in connection with this work?

15 A. I don't have the total in my head.

16 Q. Can you give me an estimate?

17 A. Over 100.

18 Q. Did that include metal halide fixtures he
19 removed?

20 A. Metal halide, yes.

21 Q. Did it include sodium?

22 A. It may have included some sodium scattered
23 throughout the plant.

24 Q. Was there a predominant lamp type before
25 this upgrade in the mix between metal halide and

39

1 sodium?

2 A. The metal halide was predominant.

3 Q. Just in terms of the quantity, there were
4 more of them than there were of the sodium?

5 A. Yes.

6 Q. Were you interested in getting rid of the
7 sodium entirely?

8 A. Yes.

9 Q. Why was that?

10 A. The color actually. Like yellow.

11 Q. So the metal halide had a better color for
12 what you were doing?

13 A. Yes.

14 Q. And for some people who needed to have good
15 color recognition in their jobs, is that an
16 improvement then?

17 A. Yes.

18 Q. So at some point after Andy Kuzmick made
19 his presentation to you, you thought this would be
20 a good idea to make the changes, and you
21 recommended a new lighting system?

22 A. Yes.

23 Q. Let me show you Exhibit 4. Do recognize
24 that document?

25 A. Yes.

40

1 Q. Explain to me what this document is.

2 A. It's a requisition.

3 Q. Who prepared this?

4 A. I did.

5 Q. And if you -- this is an order for you to
6 get approval for the expenditure to buy the new
7 lighting system?

8 A. Yes.

9 Q. Who did you submit it to?

10 A. To the product manager.

11 Q. At Metso Paper?

12 A. At Metso Paper.

13 Q. And that person had the authority to decide
14 whether to authorize the expenditure?

15 A. Then we had to go through the plant
16 manager.

17 Q. Okay. Did he have the final say then?

18 A. I'm not sure.

19 Q. But it went to the plant manager and either
20 he decided or he got whatever approval he needed?

21 A. It had to go through the proper approval
22 process.

23 Q. So it went through the approval process at
24 Metso Paper and eventually you got approval for
25 this expenditure?



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41

1 A. Yes.

2 Q. Now, I stapled these documents together.
3 Do you see they are numbered 55, 56, 57, and 58?
4 Do you recall was all this part of the package that
5 went with the requisition or did I erroneously
6 staple them together?

7 A. I can't say this went with the requisition.
8 I think the first two pages went with it.

9 Q. And the last two pages -- well, explain to
10 me what the last two pages are, they are numbered
11 Metso Paper 57 and 58.

12 A. Just diagrams of the lamp that was actually
13 sold.

14 Q. The fixture, you mean?

15 A. Yes.

16 Q. So this was the Hubbell catalog pages for
17 the fixture that Andy was recommending to you?

18 A. Yes.

19 Q. And I'm looking specifically at the last
20 page. It looks like somebody either wrote on it or
21 there was a Post It on it before it was copied. It
22 says, to Andy, and then there's the word or name,
23 bell underneath that, re: Metso Paper. Do you
24 know whose handwriting that is?

25 A. No.

42

1 Q. There is a fax line up at the top of the
2 pages. Do you know whose fax number that is?

3 A. No.

4 Q. It's not the Metso Paper fax line number,
5 though?

6 A. No.

7 Q. I see that some of the options on this page
8 are circled. Over on the left side it says, series
9 CH, circled. And then it looks like a trade name,
10 Tri Bay; do you see that?

11 A. Yes.

12 Q. And then down below it has a wattage, 75,
13 which apparently indicates a 75 watt Pulse Start
14 metal halide only; do you see that?

15 A. Yes.

16 Q. And the ballast -- apparently that's an
17 option to choose the ballast type; is that right?

18 A. Apparently.

19 Q. Let's go over to the right-hand side under
20 optics. It's got circled the letters OU. Open
21 high bay reflector is the implication; do you see
22 that?

23 A. Yes.

24 Q. Did Andy Kuzmick give you this document in
25 connection with this project?

43

1 A. I can't remember.

2 Q. Well, it was in your file. Is there
3 anywhere else you would have gotten it?

4 A. Yes.

5 Q. Pardon me.

6 A. Apparently he did.

7 Q. Okay. That's the only source you would
8 have for this document?

9 A. Yes.

10 Q. And looking at this now is in fact the
11 fixture you end up purchasing on his recommendation
12 the one that's indicated under options selected on
13 this page?

14 A. Yes.

15 Q. So he recommended to you that you get an
16 optic with an open high bay reflector?

17 A. Yes.

18 Q. Did you ever, yourself, ever look at or go
19 through the Hubbell lighting catalog and look at
20 fixtures?

21 A. I can't remember.

22 Q. Did you ever look at any of the literature
23 from any of the lamp companies, whether it was GE,
24 Sylvania, Phillips, about the lamp he was
25 recommending, that is, a 750 watt Pulse Start type

44

1 lamp? Did you go look it up and read about it?

2 A. The information he gave me.

3 Q. Was there other information we don't --
4 that I just showed you about the lamp specifically?

5 A. Yes, there was one.

6 Q. What do you recall seeing about the lamp,
7 in particular? The lamp, I'm talking about the
8 bulb. Not the fixture, the bulb itself?

9 A. I can't remember seeing anything about the
10 bulb.

11 Q. Let me just make this -- Hubbell was the
12 company that he's recommending the fixtures come
13 from, Hubbell Lighting. Do you understand that?

14 A. Yes.

15 Q. And there are different companies that make
16 bulbs that can go in these including General
17 Electric, Sylvania, Phillips, are three of the main
18 ones. So you do not recall looking at any of the
19 literature from -- let's just limit it to GE. You
20 didn't look at any literature from GE about this
21 type of light bulb?

22 A. I may have looked at -- the particulars on
23 the bulb.

24 Q. What do you remember looking at?

25 A. Some type of brochure.



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45

1 Q. Okay. In your meetings and/or phone calls,
2 any conversations you had with Andy Kuzmick, did he
3 discuss with you the question of whether you should
4 use an open fixture or enclosed fixture?

5 A. I can't remember.

6 Q. As far as you can remember, you didn't have
7 a discussion like that?

8 A. No. I can't remember if we did or we
9 didn't.

10 Q. Okay. You don't recall having one at any
11 rate?

12 A. No.

13 Q. I know these questions are not going to
14 sound good on the record. I'm going to ask you
15 again because I asked you a bad question. Do you
16 remember having a discussion with Andy Kuzmick
17 about whether you should use an open or enclosed
18 fixture in connection with the 750 watt metal
19 halide lamps you were about to buy?

20 A. I can't remember discussing that with Andy
21 Kuzmick.

22 Q. Okay. Let's look at Exhibit 5 now. Do you
23 remember seeing Exhibit 5 before?

24 A. Yes.

25 Q. What is Exhibit 5?

46

1 A. This is a purchase order.

2 Q. So when you gotten the approval for the
3 expenditure, the company issued a purchase order to
4 Friedman for the fixtures and the lamps that you
5 were ended up installing?

6 A. Yes.

7 Q. And this is the purchase order for that?

8 A. Yes.

9 Q. And your selection and the fixture that you
10 chose and the lamp that you chose was based on the
11 advice that Andy Kuzmick gave you?

12 A. Yes.

13 Q. Did you understand back at the time you
14 were buying this fixture that the lamp from GE had
15 a warning on it that said that the lamp could
16 rupture at end of the life?

17 A. No.

18 Q. Did you understand that this lamp had a
19 warning on it that there was a danger of fire if
20 you use this lamp where a ruptured bulb could land
21 on combustible material?

22 A. No.

23 Q. If you had understood that, would you have
24 put an open fixture in your mill compounding room
25 above your storage rack?

47

1
2 MS. KAMINSKY: Objection.

3 THE WITNESS: Could you say that
4 again?

5
6 BY MR. COOPER:

7 Q. If you had understood back in 2002, when
8 you were considering this installation that the
9 lamp included a warning that said, this lamp can
10 rupture, and hot pieces can come out and can ignite
11 something, would you have used an open fixture
12 above your storage rack?

13
14 MS. KAMINSKY: Objection.
15 THE WITNESS: No.

16
17 BY MR. COOPER:

18 Q. Let me show you Exhibit 6. When I was here
19 after the fire, along with a photographer that came
20 with me, you showed me many things. I think you
21 were the one that hosted us and led us around,
22 weren't you; do you recall that?

23 A. Yes.

24 Q. You showed me several things. Including
25 one of them was a cardboard box that had this lamp

48

1 sleeve. I call it a sleeve or a wrapper that we
2 see in the photo on Exhibit 6. So this is a
3 picture of what you showed us when we arrived.

4 A. Yes.

5 Q. And, I don't know, maybe it was a couple
6 weeks after the fire, something like that.

7 A. Yes.

8 Q. Why was this lamp placed in a box for us
9 and other people to see after the fire?

10 A. Just for record.

11 Q. For a record of information about the lamps
12 that were in place in the new fixtures?

13 A. Yes.

14 Q. And you'll see we took pictures, I believe,
15 of all of the printing that was on the sleeve. But
16 the part that I'm really interested in asking about
17 is on the last page. And this particular lamp that
18 you showed us, this is one that was already in your
19 stock; is that true? In your storage room as a
20 stair lamp?

21 A. Can you ask that question again?

22 Q. Well the sleeve that's in this picture,
23 assuming this is one that was in the box the day me
24 and the photographer came to look at them, is this
25 a sleeve that was in your stock before the fire, as



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| | |
|---|---|
| <p style="text-align: center;">49</p> <p>1 opposed to, did you go out and buy it in order to</p> <p>2 get a sample after the fire?</p> <p>3 A. I can't remember.</p> <p>4 Q. Who put the sleeve in the box; do you know?</p> <p>5 Was that something you did or did somebody else?</p> <p>6 A. I didn't do it. I can't remember exactly.</p> <p>7 Q. Okay. If you would look at the last page,</p> <p>8 the fourth page of this Exhibit 6, do you see there</p> <p>9 is a list of warnings on there?</p> <p>10 A. Yes.</p> <p>11 Q. Do you see about halfway down it says, an</p> <p>12 unexpected lamp rupture may cause injury, fire or</p> <p>13 property damage?</p> <p>14 A. Yes.</p> <p>15 Q. And then there is a whole list of</p> <p>16 recommendations about the lamp; correct?</p> <p>17 A. Yes.</p> <p>18 Q. One of which says, use an enclosed fixture</p> <p>19 rated for this product, see instructions. Do you</p> <p>20 see that?</p> <p>21 A. Yes.</p> <p>22 Q. Do you agree that the use of this</p> <p>23 particular lamp in an open fixture would be</p> <p>24 inconsistent with that warning?</p> <p>25 A. I see that statement?</p> | <p style="text-align: center;">51</p> <p>1 A. Yes.</p> <p>2 Q. And did you understand there was a</p> <p>3 recommendation that you replace the lamps, all the</p> <p>4 lamps, before they reached their rated life?</p> <p>5 A. I --</p> <p>6</p> <p>7 MS. KAMINSKY: I'm going to object.</p> <p>8 Can you clarify the question?</p> <p>9 MR. COOPER: No. If he understands</p> <p>10 it, he can answer it.</p> <p>11 MS. KAMINSKY: Who is making the</p> <p>12 recommendation?</p> <p>13 THE WITNESS: The recommendation is</p> <p>14 made by the outside contractor actually.</p> <p>15</p> <p>16 BY MR. COOPER:</p> <p>17 Q. Andy Kuzmick?</p> <p>18 A. No. I have another outside contractor that</p> <p>19 would recommend doing a total change of the bulbs.</p> <p>20 Q. And did someone make that recommendation to</p> <p>21 you?</p> <p>22 A. No.</p> <p>23 Q. At the time of the fire, no one had made</p> <p>24 that recommendation?</p> <p>25 A. No.</p> |
| <p style="text-align: center;">50</p> <p>1 Q. Had you read that before the fire?</p> <p>2 A. No.</p> <p>3 Q. Who in the company was responsible for</p> <p>4 replacing lamps when they burnt out?</p> <p>5 A. The maintenance department.</p> <p>6 Q. So that would be something your department</p> <p>7 would handle?</p> <p>8 A. Yes.</p> <p>9 Q. And so if there was a lamp burned out, you</p> <p>10 would assign a guy to do a replacement if there</p> <p>11 needed to be?</p> <p>12 A. Yes.</p> <p>13 Q. After you put in the new system, did you</p> <p>14 have a schedule for replacing lamps?</p> <p>15 A. They were only in a short time, so we</p> <p>16 didn't.</p> <p>17 Q. Well, the lamps -- you understood these</p> <p>18 lamps have a certain rated life assigned to them?</p> <p>19 A. Yes.</p> <p>20 Q. And did you understand that these</p> <p>21 particular lamps the 750 watt Pulse Start lamp has</p> <p>22 a 16,000 hour rated life?</p> <p>23 A. I didn't know that for sure.</p> <p>24 Q. You knew there was a number, you just don't</p> <p>25 remember that was exactly it; is that right?</p> | <p style="text-align: center;">52</p> <p>1 Q. Am I correct, that at the time of fire, no</p> <p>2 one had made that recommendation?</p> <p>3 A. Correct.</p> <p>4 Q. All right. Approximately when were these</p> <p>5 fixtures and lamps installed? And if you want to</p> <p>6 look at these documents that will help you pin down</p> <p>7 the date. What was the date of the purchase order?</p> <p>8 A. 11/7/02.</p> <p>9 Q. Does that help you to give me an estimate</p> <p>10 of when the fixtures were installed?</p> <p>11 A. I think February 2003.</p> <p>12 Q. How long were the lamps burned each week?</p> <p>13 When were they on, when were they off?</p> <p>14 A. Roughly five days a week, 24 hours a day.</p> <p>15 Shut down over the weekend.</p> <p>16 Q. So that would be 120 hours a week?</p> <p>17 A. Yes.</p> <p>18 Q. So the lamps would reach rated life -- I</p> <p>19 just did it, you can check it if you want to -- 133</p> <p>20 weeks. Does that sound right?</p> <p>21 A. Correct.</p> <p>22 Q. How many weekends a year were there people</p> <p>23 working during that -- after February 2003?</p> <p>24 A. I don't know.</p> <p>25 Q. Do you have any sense of generally was it</p> |

February 11, 2009

53

1 most weekends? It was a rare event? It was almost
2 every weekend? Do you have any estimate of that?

3 A. That's hard to say. It was up and down.
4 Slow times, busy times.

5 Q. Okay. You would agree that after February
6 2003, there was some weekends in which people were
7 in here working?

8 A. Yes.

9 Q. And so the lights would be on during those
10 times?

11 A. Not in the whole plant.

12 Q. It would be on in the areas where people
13 were working, at least?

14 A. Yes.

15 Q. Would there ever be people working in the
16 mill compounding area on weekends after February
17 2003?

18 A. Yes.

19 Q. So 133 weeks from February 2003, do you
20 know when that would take us to back? The two
21 years plus 29 weeks. So, about two and a half
22 years, roughly. Would you agree?

23 A. I would agree.

24 Q. The rated life would be reached in roughly
25 two and a half years or less, depending on the

54

1 weekend work. So if you put them in in February of
2 2003, and you were going to re-lamp before rated
3 life then your last day for re-lamping would have
4 been August of 2005, that would be two and a half
5 years; right?

6 A. Yes.

7 Q. And the fire was in January of 2006;
8 correct?

9 A. Yes.

10 Q. Okay. So you had already passed rated life
11 for all of the original Pulse Start lamps that you
12 had installed, correct, before the fire?

13 A. Yes.

14 Q. And by that time, though, you hadn't set up
15 a re-lamping schedule?

16 A. No.

17 Q. Did Andy Kuzmick recommend that you set up
18 a re-lamping schedule to do group re-lamping?

19 A. Not that I can remember.

20 Q. If you had understood that you were
21 increasing your risk of a fire by burning them that
22 long, would you have changed the lamps earlier?

23 MS. KAMINSKY: Objection.

24 THE WITNESS: Yes.
25

55

1 BY MR. COOPER:

2 Q. At any time prior to the fire had you read
3 any of the warning labels on any of the metal
4 halide lamps that were being used here at the
5 facility?

6 A. I can't remember.

7 Q. Is there anyone else here that you think
8 would have been responsible for reading warning
9 labels like that?

10 A. No.

11 Q. Would you agree with me that if you're
12 using a product in your department, say your
13 department uses something in the plant, and it
14 comes with a warning on it, that somebody in the
15 company ought to read the warning and pay attention
16 to it and follow its directions if it warns of a
17 fire hazard?

18 A. Yes.

19 Q. Have there been any changes made by Metso
20 Paper since this fire occurred in order to reduce
21 the risk of fire?

22 A. We did shield the 750 watt lamps.

23 Q. Why did you do that?

24 A. That was recommended through Corporate
25

56

1 Safety.

2 Q. Where is Corporate Safety located?
3 A. Atlanta, Georgia.

4 Q. Who is the individual there that was
5 involved in making that recommendation?

6 A. Leonard Vima.

7 Q. How did Mr. Vima get involved with this
8 issue? How did that come about?

9 A. Just through the report, the incident
10 reports.

11 Q. So he learned there was a fire in the
12 plant?

13 A. Yes.

14 Q. Because you had to send in a report to
15 corporate?

16 A. Yes.

17 Q. Anyone reprimanded in any way as a result
18 of the fire?

19 A. No.

20 Q. Was there anyone else in Atlanta who had,
21 to your knowledge, any involvement with reviewing
22 the fire and the cause of it and steps to take
23 afterwards?

24 A. No.

25 Q. Just Mr. Vima is the only one you know?



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57

- 1 A. Yes.
 2 Q. Does he still work for the company?
 3 A. Yes.
 4 Q. Does he come up here and visit your
 5 facility periodically?
 6 A. No.
 7 Q. Has he ever been here?
 8 A. Yes.
 9 Q. Was he ever here before this fire occurred?
 10 A. I can't remember that.
 11 Q. Do you have any record of his visits here?
 12 A. No.
 13 Q. Do you know if anyone has a record of his
 14 visits here?
 15 A. I couldn't tell you.
 16 Q. Did Mr. Vima's recommendation to you come
 17 in writing?
 18 A. I think so.
 19 Q. Is that a document that you provided to
 20 your attorneys in connection with the case?
 21 A. It may have been an e-mail.
 22 Q. You're not sure if you gave it to them or
 23 not?
 24 A. I can't remember giving it to them. I
 25 don't have it on file anymore.

58

- 1 Q. Why not?
 2 A. Because I didn't save it.
 3 Q. When you read an e-mail doesn't it get
 4 copied under your computer and to into your e-mail
 5 folder?
 6 A. Yes.
 7 Q. Well won't it just be saved automatically
 8 then?
 9 A. Well you have to delete the purchase system
 10 every now and then. I didn't like separately save
 11 it out of the system.
 12 Q. Okay. So it got deleted as part of your
 13 routine deletion of e-mails?
 14 A. Yes.
 15 Q. What did Mr. Vima say in his e-mail to you?
 16 A. They recommended shielding.
 17 Q. Did he explain why?
 18 A. I can't remember.
 19 Q. Did he send you any attachments along with
 20 the e-mail?
 21 A. I don't think so. I can't remember that.
 22 Q. Was this recommendation in the form of,
 23 gee, it would be a good idea or here, I want you to
 24 do this? Was it a requirement or a suggestion?
 25 That was a bad question. I'm going to try again.

59

- 1 Did Mr. Vima order you to make this change?
 2 A. Yes.
 3 Q. You didn't feel you were free to say, no,
 4 we're not going to bother with that?
 5 A. I did it.
 6 Q. You did what?
 7 A. I made the change.
 8 Q. Because of Mr. Vima's e-mail?
 9 A. Yes.
 10 Q. Who actually acquired and installed the
 11 lens covers for you?
 12 A. Maghran Electric.
 13 Q. All right. Are they the ones that had
 14 recommended the re-lamping program also?
 15 A. Yes.
 16 Q. Who is the individual there that made the
 17 recommendation for re-lamping?
 18 A. Walter Maghran.
 19 Q. He does work around here regularly?
 20 A. Yes.
 21 Q. When you need an electrician, he's one that
 22 you'll call?
 23 A. Yes.
 24 Q. Who decided where the new 750 watt fixtures
 25 were going to go?

60

- 1
 2 MS. KAMINSKY: In 2002?
 3 MR. COOPER: Yes.
 4
 5 BY MR. COOPER:
 6 Q. Somebody came up with a plan where I think
 7 you bought 53 of them -- I think from the
 8 documents -- who decided where these were going to
 9 go?
 10 A. In the compounding room or in the mill
 11 room?
 12 Q. Well, just overall who made the decision?
 13 Was that something you decided? Was that something
 14 Andy Kuzmick recommended?
 15 A. We both looked at it.
 16 Q. Okay.
 17 A. We thought it would be a good idea.
 18 Q. It was sort of a joint decision and you
 19 figured out where they needed to go?
 20 A. Yeah.
 21 Q. And you figured out the number you needed
 22 to order to do that?
 23 A. Yes.
 24 Q. Okay. And the reason you put one in the
 25 compounding room was what?



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61

1 A. Just to gain some more light in there.
 2 Q. All right. Did you remove any fixtures
 3 from that room?
 4 A. No. Just the fixture that was replaced.
 5 Q. There was one in that specific location
 6 that was replaced?
 7 A. Yes.
 8 Q. You didn't take any others out because now
 9 you had a brighter light bulb in there?
 10 A. No.
 11 Q. Do you remember actually going in the
 12 compounding room with Andy Kuzmick to talk about
 13 replacing one of the new fixtures in there?
 14 A. Yes.
 15 Q. Did he look at it and say, you can't put an
 16 open fixture there or something to that effect?
 17
 18 MS. KAMINSKY: Objection.
 19 MR. COOPER: What's the objection?
 20 MS. KAMINSKY: Hypothetical
 21 question.
 22 MR. COOPER: No, I didn't ask a
 23 hypothetical. I asked if he said that.
 24 THE WITNESS: No, he didn't say
 25 anything.

62

1
 2 BY MR. COOPER:
 3 Q. Did he say anything like that?
 4 A. No.
 5 Q. He didn't say to you that was a bad spot
 6 for an open fixture?
 7 A. No.
 8 Q. Who was involved in investigating the cause
 9 of the fire?
 10 A. The fire marshall.
 11 Q. Do you remember the name of the fire
 12 marshall?
 13 A. No.
 14 Q. How about from the insurance company, was
 15 somebody involved from the insurance company?
 16 A. Yes.
 17 Q. Do you remember who came from the insurance
 18 company? I don't mean to work on the damages part
 19 or it -- specifically to figure out what caused it.
 20 A. Zurich Risk Engineering.
 21 Q. What did they do when you were here that
 22 you saw?
 23 A. Evaluated the scene and the compounding
 24 room.
 25 Q. They went in there and took photos?

63

1 A. Yes.
 2 Q. Did they take notes?
 3 A. Yes.
 4 Q. Did they collect any evidence?
 5 A. I can't remember.
 6 Q. Did they tell you to collect or save
 7 anything, specifically?
 8 A. I can't remember.
 9 Q. Somewhere up above this rack system -- the
 10 fixture you indicated on the drawing, which is a
 11 little bit offset from the rack, was there a broken
 12 lamp in there after the fire?
 13 A. Yes.
 14 Q. Did anyone try and find the pieces from the
 15 lamp?
 16 A. To gather as much of it as possible.
 17 Q. When I came the fixture was there and
 18 portions of the lamp were still in the fixture.
 19 The bulb was still screwed in the socket, and there
 20 was some pieces dangling from it, and that was
 21 saved; correct?
 22 A. Yes.
 23 Q. Did anybody go down to the floor level and
 24 sweep up the fire debris and look through it and
 25 say, I want to find the pieces from this?

64

1 A. I can't remember.
 2 Q. All right. Do you remember the name of the
 3 person that did the investigation in the
 4 compounding room as to the fire's cause?
 5 A. The fire marshall?
 6 Q. No, the guy from Zurich. Was it a man?
 7 A. A man and a woman.
 8 Q. Two people, okay.
 9
 10 MR. COOPER: Do you know their
 11 names?
 12 MS. KAMINSKY: That has to be Scott
 13 Hopkins and the trainee, Valerie Miller.
 14 THE WITNESS: That sounds familiar.
 15 MR. COOPER: Thank you. Okay. I've
 16 seen those names and I just wasn't quite
 17 sure who did what. That's all the
 18 questions I have. Thank you.
 19
 20 EXAMINATION
 21
 22 BY MS. KAMINSKY:
 23 Q. I just wanted to ask you two quick
 24 questions. You stated that generally the lights
 25 are on Monday through Friday and off on the



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65

1 weekends?

2 A. Yes.

3 Q. When someone comes in to work on Saturday,
4 would they turn the light back on?

5 A. Yes.

6 Q. Okay. And then would they turn it off when
7 they leave that day?

8 A. Yes.

9

10 (Whereupon, the proceedings were
11 concluded at 12:51 p.m.)
12 ***

13

14

15

16

17

18

19

20

21

22

23

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25

66

1 REPORTER'S CERTIFICATE

2
3 I hereby certify that the proceedings and
4 evidence are contained fully and accurately in the
5 notes taken by me and that this copy is a correct
6 transcript of the same.
7

8
9
10
11
12
13 _____
14 Andrea L. Malkin
15 Professional Reporter
16 Notary Public in and for the
17 Commonwealth of Pennsylvania

18 My Commission expires: July 10, 2010
19
20
21
22
23
24
25



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February 11, 2009

67

| A | | | | |
|-------------------|-------------------|---------------|--------------------|---------------------|
| Abington | | advice | 53:1 | 24:3 |
| 4:25 | 46:11 | after | 37:3 47:19 | anybody |
| able | 5:6 12:14 | | 58:19 | 63:23 |
| 8:18 9:12 | 17:2,3 | | already | anymore |
| 18:17 | 33:25 34:2 | | 5:9,16 8:6 | 57:25 |
| about | 38:6 39:18 | | 48:18 54:10 | anywhere |
| 4:12 11:3 | 47:19 48:6 | | also | 43:3 |
| 14:21 16:1 | 48:9 49:2 | | 10:10,23 | apart |
| 18:15 25:17 | 50:13 52:23 | | 11:22 18:1 | 20:18 |
| 28:5,24 | 53:5,16 | | 18:21 20:7 | apparently |
| 29:16 31:20 | 63:12 | | 26:1,6 | 15:25 31:9 |
| 43:24 44:1 | afterwards | | 29:20 30:25 | 36:16 42:13 |
| 44:4,6,7,9 | 56:23 | | 31:10,22 | 42:16,18 |
| 44:20 45:17 | again | | 33:8 38:9 | 43:6 |
| 45:19 48:11 | 7:3 9:25 | | 59:14 | APPEARANCES |
| 48:16 49:11 | 17:21 45:15 | | alternative | 2:1 |
| 49:16 53:21 | 47:4 48:21 | | 34:15 | appears |
| 56:8 61:12 | 58:25 | | analysis | 17:6 31:23 |
| 62:14 | against | | 34:8,22 | approval |
| above | 4:14 16:4 | | 35:21 38:4 | 40:6,20,21 |
| 17:21,23 | 33:16 | | Andrea | 40:23,24 |
| 21:17 46:25 | ago | | 1:13 66:13 | 46:2 |
| 47:12 63:9 | 32:14 | | Andy | Approxima... |
| abut | agree | | 29:11,15 | 52:4 |
| 16:4 | 18:12 49:22 | | 34:5,17 | area |
| accurately | 53:5,22,23 | | 37:14 39:18 | 13:9 17:21 |
| 66:4 | 55:12 | | 41:17,22 | 20:22 22:14 |
| acquired | air | | 42:24 45:2 | 24:8 26:15 |
| 59:10 | 15:7 | | 45:16,20 | 28:19 30:17 |
| ACTION | aisle | | 46:11 51:17 | 30:20,24,25 |
| 1:3 | 15:15 | | 54:17 60:14 | 31:20 32:5 |
| actual | all | | 61:12 | 32:24 33:11 |
| 10:14 16:6 | 9:5 14:2,8 | | and/or | 53:16 |
| 18:18 | 17:4 18:12 | | 45:1 | areas |
| actually | 22:18 25:1 | | another | 7:7 53:12 |
| 12:9 18:22 | 25:4,7,20 | | 15:24 16:17 | around |
| 19:23 33:18 | 26:4,12 | | 19:5 22:10 | 7:22 23:6 |
| 39:10 41:12 | 30:9,13 | | 22:11 30:21 | 27:9 31:4 |
| 51:14 59:10 | 32:2 36:4 | | 51:18 | 35:1 47:21 |
| 61:11 | 37:6 41:4 | | answer | 59:19 |
| added | 48:15 51:3 | | 4:20 6:25 | arrived |
| 29:23 32:11 | 52:4 54:11 | | 26:5 51:10 | 48:3 |
| adding | 59:13 61:2 | | answering | asked |
| 29:16 | 64:2,17 | | 4:21 | 13:16 18:15 |
| address | allowed | | answers | 29:5 36:17 |
| 4:24 | 8:10,13 | | 4:17 | 45:15 61:23 |
| | almost | | antiquated | asking |
| | | | | 4:19 6:25 |
| | | | | 37:2 48:16 |
| | | | | assess |
| | | | | 32:21 |
| | | | | assign |
| | | | | 50:10 |
| | | | | assigned |
| | | | | 50:18 |
| | | | | assume |
| | | | | 38:9 |
| | | | | assuming |
| | | | | 48:23 |
| | | | | Atlanta |
| | | | | 56:3,20 |
| | | | | attachments |
| | | | | 58:19 |
| | | | | attention |
| | | | | 55:16 |
| | | | | attorney |
| | | | | 4:11 |
| | | | | attorneys |
| | | | | 57:20 |
| | | | | August |
| | | | | 54:4 |
| | | | | authority |
| | | | | 40:13 |
| | | | | authorize |
| | | | | 40:14 |
| | | | | automatic... |
| | | | | 58:7 |
| | | | | aware |
| | | | | 27:13 |
| | | | | a.m |
| | | | | 1:12 |
| | | | | B |
| | | | | back |
| | | | | 6:24 8:16,24 |
| | | | | 9:8 20:21 |
| | | | | 23:17 25:10 |
| | | | | 29:1 30:17 |
| | | | | 31:2 34:19 |
| | | | | 35:25 46:13 |
| | | | | 47:7 53:20 |
| | | | | 65:4 |
| | | | | bad |
| | | | | 45:15 58:25 |
| | | | | 62:5 |



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| | | | | |
|---|--|---|--|---|
| bags 11:24,25 ballast 42:16,17 based 46:10 basically 23:13 36:1 bay 6:8 7:5 19:19 24:6 24:9 25:2,4 25:5 30:8 30:18 37:22 37:24 42:10 42:21 43:16 because 36:16 45:15 56:14 58:2 59:8 61:8 become 27:13 Bedford 2:14 before 1:12 4:19,21 8:10,12 12:13,16 24:6 25:2 26:5 32:15 34:12 38:24 41:21 45:23 48:25 50:1 51:4 54:2 54:12 57:9 behalf 23:24 being 9:3 10:15,20 10:23 36:9 55:5 believe 48:14 bell 41:23 below 42:12 best | 12:21 better 39:11 between 16:10 38:25 bit 7:4 21:18 33:22 63:11 blocks 11:18 blow 10:3 boom 16:21,22 both 9:24 11:1 60:15 bother 59:4 bottom 24:25 25:17 bought 60:7 box 47:25 48:8 48:23 49:4 boxes 12:3 boy 19:18 break 13:24 brighter 61:9 brochure 44:25 broken 63:11 building 6:9 7:6 8:3 8:11,13,19 8:24 9:5,9 20:18 23:21 27:17 28:17 28:18,21 29:17 30:12 30:21 | bulb 5:21 6:15,21 6:21 28:9 37:19 44:8 44:8,10,21 44:23 46:20 61:9 63:19 bulbs 5:25 6:19,20 6:21 24:10 44:16 51:19 burned 10:2 11:15 50:9 52:12 burning 5:22,25 8:4 9:23 18:18 54:21 burns 27:2 burnt 15:1 50:4 busy 53:4 buy 38:5 40:6 45:19 49:1 buying 46:14 C calibration 22:4 call 6:18,19,20 6:22,23 48:1 59:22 called 7:25 10:12 29:12,13 calls 45:1 came 5:5 7:25 8:24 35:25 36:16,18 47:19 48:24 60:6 62:17 | 63:17 camera 13:11,12 cannot 7:17 cardboard 12:3 47:25 case 29:20 36:24 57:20 catalog 41:16 43:19 cause 49:12 56:22 62:8 64:4 caused 9:22 62:19 ceiling 9:14 19:9 21:6 certain 50:18 CERTIFICATE 66:1 certify 66:3 CH 42:9 change 25:3 27:2 36:15 37:7 51:19 59:1 59:7 changed 27:14 32:16 54:22 changes 26:22,24 39:20 55:20 changing 28:11,12 29:16 charge 23:14 charred 10:2 Chase | 2:5 check 52:19 chemicals 11:13 choose 42:17 chose 46:10,10 circle 21:20,25 31:3,6 circled 42:8,9,20 CIVIL 1:3 claims 4:13 clarify 51:8 Clarks 1:10 4:23 CLAUSEN 2:3 cleaning 5:9 clear 37:5 close 16:9 closed 26:12 closer 10:24 closest 17:5,5,22 22:13,22 collect 63:4,6 color 39:10,11,15 combustible 46:21 come 8:3 34:21 44:12 47:10 56:8 57:4 |
|---|--|---|--|---|



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69

| | | | | |
|---|--|--|--|--|
| 57:16 comes 55:15 65:3 commencing 1:12 Commission 66:18 Commonwealth 66:16 companies 43:23 44:15 company 1:6 9:4 23:19,24 26:20 44:12 46:3 50:3 55:16 57:2 62:14,15,18 compare 35:22 complete 28:13 completely 4:18 complies 22:1 compounding 5:10 7:1 9:8 10:2,6,11 11:12,21 13:9 15:23 20:22 22:6 23:14 24:8 25:2,7,14 25:21 33:2 35:3 46:24 53:16 60:10 60:25 61:12 62:23 64:4 computer 14:1 58:4 concluded 65:11 conditioning 15:8 configura... 12:15 connection | 4:14 34:22 36:15 38:14 42:25 45:18 57:20 considering 47:8 consistent 31:19 constructed 33:19 contacted 29:4 contained 36:1 66:4 containers 11:16 12:5 contractor 51:14,18 conversation 29:2 conversat... 45:2 Cooper 2:12 3:7 4:6 4:10 13:19 13:23 14:18 17:16,20 19:4 32:10 32:19 37:2 37:9,13 47:6,17 51:9,16 55:2 60:3,5 61:19,22 62:2 64:10 64:15 copied 41:21 58:4 copy 13:16 35:10 66:5 corporate 55:25 56:2 56:15 correct 5:22 6:3 9:10 10:7 10:18 16:12 | 16:13 18:14 18:23,24 19:12,13,14 19:15 20:9 20:19 22:16 22:17 25:12 25:13,15 33:23 35:19 38:2 49:16 52:1,3,21 54:8,12 63:21 66:5 cost 35:17 38:5,6 costing 35:22 couldn't 16:2 23:12 57:15 couple 48:5 court 1:1 4:15 cover 19:14,16,21 covers 59:11 custom 23:4 28:7 cut 9:4,5 cutting 20:18 D damage 8:20,21 9:19 9:21,22,22 9:23 10:15 13:9 49:13 damaged 11:6,11 damages 62:18 danger 46:19 dangling 63:20 | DANIELLE 2:4 data 32:20 date 52:7,7 Dave 4:9 DAVID 1:8 3:5 4:1 day 5:5 7:24 12:24 20:17 48:23 52:14 54:3 65:7 days 52:14 debris 63:24 decide 40:13 decided 23:20 28:11 40:20 59:24 60:8,13 decision 26:21 60:12 60:18 Defendant 1:7 2:17 delete 58:9 deleted 58:12 deletion 58:13 department 8:6 20:12 27:5,7 50:5 50:6 55:13 55:14 departments 27:3 depending 53:25 deposition 1:8 4:18 | describe 9:21 14:24 27:21 DESCRIPTION 3:15 design 19:22 detail 18:15 diagram 30:12 31:23 33:1,23 diagrams 41:12 didn't 11:7 14:3 20:17 24:17 44:20 45:6 45:9 49:6 50:16,23 58:2,10 59:3 61:8 61:22,24 62:5 different 18:23 26:14 26:17 32:9 44:15 digital 13:11,13 direct 9:23 directions 55:17 directly 9:22 21:17 discuss 45:3 discussing 45:20 discussion 13:21 45:7 45:16 distance 16:6 DISTRICT 1:1,1 |
|---|--|--|--|--|



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| | | | | |
|--|--|---|---|--|
| divided 33:10 | 52:6,15 53:3 63:23 | end 9:2 11:3 16:10 43:11 | excuse 24:7 | facility 55:6 57:5 |
| document 30:5 34:2,12 34:14 39:24 40:1 42:24 43:8 57:19 | draw 20:25 21:20 drawing 16:7 21:3,23 63:10 | 46:16 ended 46:5 energy 34:4 35:17 Engineering 62:20 | exhibit 3:15 5:11 10:6 14:19 14:21 15:12 15:14 16:8 16:17 17:4 18:6,21,23 19:5 20:7 20:20 21:2 21:5,14,20 21:22 22:23 25:10,22 29:20 30:4 30:16 34:1 34:11 35:10 36:1 39:23 45:22,23,25 47:18 48:2 49:8 | fact 43:10 failed 24:16 familiar 30:4 64:14 far 14:8,9 16:18 45:6 fax 42:1,2,4 February 1:11 52:11 52:23 53:5 53:16,19 54:1 |
| documented 23:9 27:23 28:3,5,6 | drums 15:17,20 16:3,10 | enter 8:10,13,18 entire 7:5 entirely 39:7 | 20:20 21:2 21:5,14,20 21:22 22:23 25:10,22 29:20 30:4 30:16 34:1 34:11 35:10 36:1 39:23 45:22,23,25 47:18 48:2 49:8 | February 1:11 52:11 52:23 53:5 53:16,19 54:1 |
| documents 23:18 36:17 37:7 41:2 52:6 60:8 | DUGGAN 2:11 duly 4:2 during 35:4 52:23 53:9 | equipment 16:19 erroneously 41:5 ESQUIRE 2:4,12 essentially 34:18 estimate 38:16 52:9 53:2 Evaluated 8:20 62:23 evaluating 28:24 event 53:1 eventually 40:24 everything 36:23 evidence 63:4 66:4 exactly 49:6 50:25 EXAMINATION 4:4 64:20 examining 9:19 example 11:19 | Exhibits 3:12 14:15 existed 24:5 existing 38:10,13 expenditure 40:6,14,25 46:3 expires 66:18 explain 7:3 30:7 40:1 41:9 58:17 explained 36:4 exterior 9:13,16 e-mail 57:21 58:3,4 58:15,20 59:8 e-mails 58:13 | far 14:8,9 16:18 45:6 fax 42:1,2,4 February 1:11 52:11 52:23 53:5 53:16,19 54:1 feel 59:3 feet 16:14 few 6:9 7:7 10:1 13:24 16:5 figure 62:19 figured 60:19,21 file 36:14,20,23 43:2 57:25 film 13:11 final 40:17 find 4:12 9:24 36:17 63:14 63:25 finish 4:19,20 finishing 27:5 fire 4:12,14 5:6 5:13 7:24 |
| doesn't 31:14 33:14 58:3 | | | | |
| doing 23:24 27:4 28:13 35:20 39:12 51:19 | E | | | |
| don't 5:13 6:18 9:12 12:25 18:4 20:3 20:25 21:24 23:3 27:23 27:24 30:3 37:21 38:15 44:3 45:10 48:5 50:24 52:24 57:25 58:21 62:18 | each 4:16,17 29:23 52:12 earlier 10:5 54:22 economic 38:4 effect 23:11 61:16 efficiency 24:4 efforts 20:14 either 36:13 40:19 41:20 Electric 1:6 4:11 29:2,4 34:6 44:17 59:12 electrician 59:21 electricity 35:21 enclosed 25:8,11,16 25:21 45:4 45:17 49:18 | | | |
| door 9:15,16 | | | | |
| doors 9:13 | | | | |
| doorway 22:7,8 | | | | |
| dot 31:4 | | | | |
| dots 30:9 | | | | |
| down 17:6 22:13 22:14 29:21 30:17 31:22 42:12 49:11 | | | | |
| | | | F | |



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71

| | | | | |
|---------------------|-----------------|------------------|----------------|--------------------|
| 8:4,6,10 | fixtures | front | 30:11 31:2 | 42:14 45:19 |
| 9:23,23 | 5:17,18 6:4 | 15:17 | 35:3 40:15 | 55:5 |
| 10:7,15 | 6:13,18 7:1 | fully | 40:21 42:19 | handle |
| 12:8,14,24 | 7:9,10,20 | 66:4 | 43:18 44:1 | 50:7 |
| 13:9 14:22 | 19:17,18,19 | G | 44:16 49:1 | handwriting |
| 17:1,2,3 | 20:3 21:4,5 | | 59:25 60:9 | 41:24 |
| 18:19 20:11 | 24:16,25 | G | 60:19 63:23 | happen |
| 22:19 23:1 | 25:1,17,21 | 2:12 | goes | 24:14 |
| 23:2 33:12 | 25:24 26:7 | gain | 19:2 30:2 | hard |
| 46:19 47:19 | 26:12,15,18 | 61:1 | going | 53:3 |
| 48:6,9,25 | 26:21 28:12 | gather | 6:23 38:10 | hazard |
| 49:2,12 | 29:17 30:13 | 63:16 | 45:13,14 | 55:18 |
| 50:1 51:23 | 30:25 32:3 | gathering | 51:7 54:2 | head |
| 52:1 54:7 | 37:24 38:11 | 32:20 | 58:25 59:4 | 38:15 |
| 54:12,21 | 38:13,18 | gave | 59:25 60:8 | held |
| 55:3,18,21 | 43:20 44:12 | 34:3,5,19 | 61:11 | 13:21 |
| 55:22 56:11 | 46:4 48:12 | 44:2 46:11 | good | help |
| 56:18,22 | 52:5,10 | 57:22 | 8:12 32:11 | 29:5 52:6,9 |
| 57:9 62:9 | 59:24 61:2 | GE | 39:14,20 | hereby |
| 62:10,11 | 61:13 | 4:14 43:23 | 45:14 58:23 | 66:3 |
| 63:12,24 | floor | 44:19,20 | 60:17 | high |
| 64:5 | 2:6 10:4 | 46:14 | gotten | 26:7 37:22 |
| firefighting | 16:8 17:6 | gee | 23:18 43:3 | 37:24 42:21 |
| 20:14 | 17:11,23 | 58:23 | 46:2 | 43:16 |
| fire's | 20:21 22:15 | General | Griffin | higher |
| 64:4 | 22:25 23:6 | 1:6 4:11 | 1:10 | 16:23 18:6 |
| first | 63:23 | 44:16 | group | 19:2 |
| 4:1 9:8 10:6 | folder | generally | 27:1 54:18 | highest |
| 18:7 22:15 | 36:20 58:5 | 52:25 64:24 | guy | 18:7 |
| 22:22 28:2 | follow | Georgia | 29:12 30:19 | him |
| 30:20 41:8 | 55:17 | 56:3 | 50:10 64:6 | 14:10 35:10 |
| five | followed | getting | guys | 35:13,15 |
| 52:14 | 29:22 | 8:16 20:2 | 30:14 | 36:3 |
| fixture | follows | 39:6 | H | holding |
| 5:21 6:15,16 | 4:2 | give | hadn't | 8:22 |
| 19:11,22 | form | 4:17 13:16 | 54:14 | hole |
| 20:6 21:12 | 58:22 | 35:10,13,21 | half | 20:9,22,23 |
| 21:21 25:11 | four | 36:23 38:16 | 53:21,25 | 21:1,2 |
| 27:10 31:11 | 26:9 32:6 | 42:24 52:9 | 54:4 | honestly |
| 37:18,19 | fourth | given | halfway | 7:15 |
| 41:14,17 | 49:8 | 13:5 35:15 | 49:11 | Hopkins |
| 43:11 44:8 | free | giving | halide | 64:13 |
| 45:4,4,18 | 59:3 | 37:4 57:24 | 6:21 24:10 | hosted |
| 46:9,14,24 | Friday | go | 26:2,4,11 | 47:21 |
| 47:11 49:18 | 64:25 | 6:24 16:8 | 31:13,15 | hot |
| 49:23 61:4 | Friedman | 23:17 25:10 | 38:18,20,25 | 47:10 |
| 61:16 62:6 | 29:2,4 34:6 | 27:2 28:24 | 39:2,11 | hour |
| 63:10,17,18 | 46:4 | | | |



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72

72

| | | | | |
|--|--|--|--|--|
| 8:12 50:22 hours 52:14,16 Hubbell 37:22,23 41:16 43:19 44:11,13 hypothetical 61:20,23 | increasing 54:21 INDEX 3:1,12 indicate 31:12 32:3 indicated 43:12 63:10 indicates 31:24 42:13 indicating 10:16 21:21 individual 29:24,25 56:4 59:16 information 44:2,3 48:11 initially 9:19 initials 21:24 injury 49:12 installation 47:8 installed 20:1 52:5,10 54:12 59:10 installing 46:5 instructions 49:19 insurance 62:14,15,17 interested 39:6 48:16 into 6:19 8:3,24 9:9,12 22:7 33:11,19 35:3 58:4 inventory 11:5 investiga... 62:8 investiga... 64:3 | involved 26:20 28:22 56:5,7 62:8 62:15 involvement 56:21 issue 56:8 issued 46:3 | Kaminsky 3:9 17:14,18 19:1 32:8 32:12,15 37:5 47:2 47:14 51:7 51:11 54:24 60:2 61:18 61:20 64:12 64:22 keeping 8:15 Kevin 11:9 23:16 kind 11:16 24:5 27:25 34:8 36:14 knew 50:24 know 4:12 5:13 9:12 12:25 13:1,3 14:4 14:8,9 17:10 18:4 18:8 20:2,4 22:21 23:3 26:15 31:5 31:24 41:24 42:2 45:13 48:5 49:4 50:23 52:24 53:20 56:25 57:13 64:10 knowledge 56:21 Kopp 14:5 Kuzmick 1:8 3:5 4:1 4:9,10,22 13:24 29:11 34:5,17 37:14 39:18 42:24 45:2 45:16,21 46:11 51:17 | 54:17 60:14 61:12 L L 1:13 66:13 labels 55:4,10 lamp 6:14,16,22 6:23 8:22 25:11 31:9 38:24 41:12 43:23,24 44:1,4,6,7 46:10,14,15 46:18,20 47:9,9,25 48:8,17,20 49:12,16,23 50:9,21 63:12,15,18 lamps 6:8,9,11,13 7:9 24:10 25:4 26:2,4 26:25 27:14 30:10,10 31:17 32:5 32:15 45:19 46:4 48:11 50:4,14,17 50:18,21 51:3,4 52:5 52:12,18 54:11,22 55:5,23 land 46:20 last 6:24 32:23 41:9,10,19 48:17 49:7 54:3 later 9:24 lawyers 36:24 |
| I idea 39:20 58:23 60:17 identical 18:12 identific... 14:16 identified 10:5 18:16 22:14 25:10 identify 18:17 ignite 47:10 illustration 10:18 immediately 23:1,6 implication 42:21 improve 37:15 improvement 24:4 39:16 inches 16:5 incident 56:9 include 38:18,21 included 38:22 47:9 including 44:16 47:24 inconsistent 49:24 | J January 54:7 Jim 14:5 job 5:1,3 28:2 jobs 39:15 joint 60:18 July 66:18 just 5:11,11 6:17 7:2 8:22 11:18,22 14:19 15:5 19:22 20:17 26:17 28:6 29:19 30:1 32:12 37:2 37:5 39:3 41:12 44:4 44:11,19 48:10 50:24 52:19 56:9 56:25 58:7 60:12 61:1 61:4 64:16 64:23 | K Kalmanowicz 11:9 23:16 KAMINSKI 2:4 | | |



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73

| | | | | |
|------------------|-------------------|-----------------|--------------------|-------------------|
| layers | 50:22 51:4 | 4:22 | lower | marked |
| 18:9 | 52:18 53:24 | LLP | 29:21 31:22 | 3:15 5:11 |
| learn | 54:3,10 | 2:11 | lumen | 14:15 29:19 |
| 27:12 | lift | located | 28:20 | marshall |
| learned | 16:20 | 10:15 16:25 | lumens | 62:10,12 |
| 56:11 | light | 21:1,14,22 | 28:8 | 64:5 |
| least | 6:15,19,19 | 30:13 56:2 | | material |
| 5:18 7:18 | 6:20 9:11 | location | M | 10:1,2 11:5 |
| 16:15 53:13 | 9:18 19:10 | 18:1 61:5 | MA | 11:10,12 |
| leave | 24:25 25:1 | long | 2:15 | 12:1 15:1 |
| 65:7 | 27:10 28:8 | 5:3 8:9 | Maghran | 15:21 17:7 |
| led | 28:14 29:16 | 32:14 52:12 | 59:12,18 | 17:10 18:3 |
| 47:21 | 37:7,19 | 54:22 | main | 18:5,17 |
| left | 44:21 61:1 | longer | 6:8 7:5 24:6 | 22:18,25 |
| 31:22 42:8 | 61:9 65:4 | 8:14 | 24:9 25:2,4 | 23:5 46:21 |
| left-hand | lighting | look | 25:5 30:8 | materials |
| 33:16 | 7:8 9:4 | 10:7 15:16 | 30:18,20 | 8:23 11:14 |
| lens | 23:20 24:5 | 19:1 20:20 | 31:25 44:17 | 11:21,22 |
| 5:19 19:14 | 24:20 28:25 | 43:18,19,22 | mainly | 15:23 |
| 19:16 25:12 | 31:20 34:9 | 44:1,20 | 8:14,15 19:8 | maybe |
| 25:17 59:11 | 34:15 35:17 | 45:22 48:24 | maintenance | 6:15 8:13 |
| lenses | 35:22 36:15 | 49:7 52:6 | 5:2 27:7 | 13:4 31:17 |
| 6:1,4 7:2,2 | 37:15 38:6 | 61:15 63:24 | 28:2 30:14 | 48:5 |
| 20:3 21:8 | 39:21 40:7 | looked | 50:5 | mean |
| 21:10 24:25 | 43:19 44:13 | 7:6,6 10:1 | make | 6:12,14,16 |
| Leonard | lights | 15:12 44:22 | 4:20 24:15 | 6:16 24:13 |
| 56:6 | 8:25 9:7,24 | 60:15 | 30:12 34:24 | 31:8 36:16 |
| less | 24:23 53:9 | looking | 39:20 44:11 | 41:14 62:18 |
| 53:25 | 64:24 | 13:4 16:17 | 44:15 51:20 | Meaning |
| letters | limit | 17:4 19:8 | 59:1 | 34:5 |
| 31:11 42:20 | 44:19 | 20:7,9 22:2 | making | meant |
| let's | Lincoln | 22:6 23:18 | 4:15 51:11 | 36:5 |
| 6:24 22:10 | 2:13,15 | 24:4 41:19 | 56:5 | measure |
| 23:17 24:6 | line | 43:10 44:18 | Malkin | 28:20 |
| 25:10 42:19 | 42:1,4 | 44:24 | 1:13 66:13 | measured |
| 44:19 45:22 | list | looks | man | 28:9 |
| level | 49:9,15 | 15:7 16:8,10 | 64:6,7 | mechanical |
| 12:23 16:23 | lit | 17:12,24,25 | manager | 28:19 |
| 17:23 18:6 | 5:25 | 18:9 21:4 | 40:10,16,19 | meeting |
| 18:7 22:21 | literature | 22:6,15 | Manhattan | 36:3 |
| 28:14 63:23 | 43:22 44:19 | 23:19 31:3 | 2:5 | meetings |
| levels | 44:20 | 33:10 41:20 | many | 36:7,12 45:1 |
| 12:7,18 | little | 42:9 | 12:7,18 21:5 | memory |
| 18:11 22:16 | 7:4 8:13 | lot | 21:8,9 32:2 | 7:13 12:21 |
| 22:19 28:20 | 18:23 21:18 | 15:1 | 32:4 34:24 | metal |
| life | 22:12 30:12 | low | 36:7 38:13 | 6:21 12:5 |
| 46:16 50:18 | 33:22 63:11 | 19:18,19 | 47:20 52:22 | 15:20 24:10 |
| | live | 28:14 | | 26:1,4,11 |



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74

| | | | | |
|----------------|--------------------|------------------|------------------|-----------------|
| 31:13,15 | | 41:3,10 | 37:2 40:17 | 40:5 46:1,3 |
| 32:23 38:18 | N | numbers | 43:7 45:1 | 46:7 49:1 |
| 38:20,25 | name | 14:19 29:22 | 45:10,22 | 52:7 55:21 |
| 39:2,11 | 4:7,10 41:22 | 29:23,25 | 49:7 53:5 | 59:1 60:22 |
| 42:14 45:18 | 42:9 62:11 | 32:2,3,8,11 | 54:10 58:12 | original |
| 55:4 | 64:2 | NY | 60:16,24 | 54:11 |
| Metso | names | 2:7 | 64:8,15 | other |
| 1:3,9 5:1 | 64:11,16 | O | 65:6 | 4:13 5:24 |
| 29:22 30:11 | natural | object | old | 9:13,21 |
| 33:6 37:15 | 9:11 | 51:7 | 2:14 7:10 | 17:16 18:16 |
| 40:11,12,24 | near | objection | 24:4,12,23 | 19:24 27:19 |
| 41:11,23 | 31:22 | 47:2,14 | 26:21 30:10 | 28:20 31:15 |
| 42:4 55:20 | necessarily | 54:24 61:18 | 31:17 | 44:3 48:9 |
| MH | 28:4 | 61:19 | ones | others |
| 31:11,15 | need | observing | 7:11 19:24 | 61:8 |
| middle | 4:18 59:21 | 35:6 | 19:25,25 | OU |
| 1:1 10:16,17 | needed | occur | 26:11 31:14 | 42:20 |
| 10:20 | 7:7 39:14 | 8:21 | 44:18 59:13 | ought |
| mill | 40:20 50:11 | occurred | only | 55:16 |
| 9:8 24:8 | 60:19,21 | 5:13 10:8 | 7:15 9:18 | outside |
| 33:5 35:3 | needs | 12:8 14:22 | 17:24 28:16 | 23:6 51:14 |
| 46:24 53:16 | 32:21 37:20 | 18:18 33:12 | 42:14 43:7 | 51:18 |
| 60:10 | 38:6 | 55:21 57:9 | 50:15 56:25 | over |
| Miller | new | offer | open | 16:18 26:17 |
| 2:3 64:13 | 2:7 7:11,19 | 35:23 | 9:15 11:17 | 33:22 34:21 |
| minutes | 19:25 28:12 | office | 11:22 19:24 | 36:24 38:17 |
| 13:25 | 39:21 40:6 | 29:22 | 19:25 21:9 | 42:8,19 |
| mix | 48:12 50:13 | officer | 21:10,11,21 | 52:15 |
| 6:24 38:25 | 59:24 61:13 | 14:11 | 25:4,5,24 | overall |
| mixed | nobody | offices | 42:20 43:16 | 60:12 |
| 26:9 | 13:5 | 1:9 | 45:4,17 | P |
| mixing | noise | offset | 46:24 47:11 | package |
| 33:13 | 24:15 | 21:18,19 | 49:23 61:16 | 41:4 |
| mixture | North | 63:11 | 62:6 | page |
| 26:14 | 2:13 | Oh | operating | 3:3,14 10:6 |
| Monday | Notary | 7:16 25:5 | 23:14 | 29:23,24 |
| 64:25 | 66:15 | 32:10 | opposed | 30:16,20,21 |
| money | notes | okay | 27:1 49:1 | 30:23 31:2 |
| 35:17 | 35:6 36:12 | 5:1 6:11,14 | optic | 31:10,22 |
| most | 37:10 63:2 | 7:10,16 8:1 | 43:16 | 32:6,9,23 |
| 11:24 53:1 | 66:5 | 10:14 14:4 | optics | 33:6,10 |
| mostly | notice | 17:18 19:23 | 42:20 | 41:20 42:7 |
| 12:1,2 | 29:20 | 20:7 21:24 | option | 43:13 48:17 |
| moved | number | 22:2 23:13 | 42:17 | 49:7,8 |
| 17:1,3 | 22:11 29:24 | 23:17 27:6 | options | pages |
| much | 33:6 42:2,4 | 28:4,14 | 42:7 43:12 | 29:25 41:8,9 |
| 35:21 63:16 | 50:24 60:21 | 30:19 33:18 | order | 41:10,16 |
| | numbered | | 30:1 32:21 | |



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|------------------|--------------|-------------|--------------|--------------|
| 42:2 painting | periodically | 11:19 | 41:21 | proper |
| 5:16 | 57:5 | pin | powders | 40:21 |
| pallet | person | 52:6 | 11:13 | property |
| 11:19,23 | 10:11 23:13 | place | powder-type | 49:13 |
| 17:7,11,25 | 40:13 64:3 | 27:22 48:12 | 11:25 | proposal |
| 18:3 | perspective | placed | power | 37:21,23 |
| pallets | 17:15 | 48:8 | 9:4,5 31:25 | provided |
| 10:1 | Phillips | Plaintiff | practice | 37:8 57:19 |
| Paper | 43:24 44:17 | 1:4 2:9 | 23:4 28:7 | Public |
| 1:3,9 5:1 | phone | plan | predominant | 66:15 |
| 40:11,12,24 | 45:1 | 10:4 16:8 | 38:24 39:2 | pulse |
| 41:11,23 | photo | 20:21 60:6 | prepared | 37:16,24 |
| 42:4 55:21 | 6:1 14:25 | plant | 32:13 33:1 | 42:13 43:25 |
| Pardon | 15:3,16 | 5:2 24:6 | 33:25 34:2 | 50:21 54:11 |
| 43:5 | 16:9 17:14 | 27:1 29:3 | 40:3 | purchase |
| part | 17:25 18:21 | 32:1,24 | preparing | 46:1,3,7 |
| 15:23 20:14 | 19:7 22:3 | 34:21 35:1 | 34:22 | 52:7 58:9 |
| 24:19 27:17 | 48:2 | 38:23 40:15 | presentation | purchased |
| 28:16,18 | photograph | 40:19 53:11 | 36:10 39:19 | 6:8,9 |
| 35:20 38:9 | 3:16,17,18 | 55:14 56:12 | presented | purchasing |
| 41:4 48:16 | 3:19,20,21 | plastic | 36:4 | 43:11 |
| 58:12 62:18 | 3:22 10:4 | 24:25 | pressured | purpose |
| particular | photographer | Plaza | 26:7 | 19:16,21 |
| 7:19 19:22 | 5:8 15:13 | 2:5 | printing | purposes |
| 20:5 27:17 | 47:19 48:24 | plus | 48:15 | 35:16 |
| 44:7 48:17 | photographs | 53:21 | prior | pushed |
| 49:23 50:21 | 35:8 | point | 18:18 23:1,1 | 33:21 |
| particulars | photos | 15:5 32:11 | 25:8,20 | put |
| 44:22 | 5:10 13:25 | 39:18 | 26:22,24 | 6:18 7:8 8:9 |
| parts | 14:4 16:18 | pointing | 55:3 | 14:19 20:11 |
| 27:19 28:21 | 18:15 19:6 | 10:17 15:6 | problems | 21:24 26:17 |
| passed | 20:8 37:4,9 | 21:16 22:9 | 24:11 | 26:21 38:5 |
| 54:10 | 62:25 | Pond | proceedings | 38:6 46:24 |
| pay | picture | 1:10 | 65:10 66:3 | 49:4 50:13 |
| 55:16 | 5:18 13:4 | portion | process | 54:1 60:24 |
| PC | 19:11,11 | 23:21 32:1 | 40:22,23 | 61:15 |
| 2:3 | 22:11 48:3 | 32:24 | product | p.m |
| pen | 48:22 | portions | 40:10 49:19 | 65:11 |
| 20:25 | pictures | 63:18 | 55:13 | |
| Pennsylvania | 13:5,6,8,14 | possibility | Professional | Q |
| 1:1,11 4:23 | 14:10 24:24 | 29:16 | 1:13 66:14 | quantity |
| 66:16 | 48:14 | possible | program | 39:3 |
| people | piece | 63:16 | 34:15 59:14 | question |
| 26:17 39:14 | 16:19 | possibly | progress | 4:19,21 45:3 |
| 48:9 52:22 | pieces | 7:18 26:9 | 8:2 | 45:15 48:21 |
| 53:6,12,15 | 47:10 63:14 | 31:16,18 | project | 51:8 58:25 |
| 64:8 | 63:20,25 | Post | 29:1 42:25 | 61:21 |
| | piled | | | |



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|-------------------------------------|-----------------------------|--------------------------|----------------------------|----------------------|
| questions 4:16 45:13 64:18,24 | 6:23 33:21 48:16 | 29:24 | 24:20 51:3 | ride 16:23 |
| quick 64:23 | reason 7:3 16:7 | reference 26:6 | replaced 12:14 26:25 | right 5:23 7:12 |
| quite 64:16 | 23:19 24:1 24:19 60:24 | reflector 42:21 43:16 | 61:4,6 | 9:9 10:16 |
| quotation 29:3 | recall 13:17 28:1 | regularly 59:19 | replacement 50:10 | 15:6 16:4 |
| R | 28:22 41:4 44:6,18 | related 4:13 37:7 | replacing 50:4,14 | 16:18 17:4 |
| rack 8:22,23 | 45:10 47:22 | relationship 22:5 | 61:13 | 17:8 18:1 |
| 10:21,23 | received 30:1 | relative 29:7 | report 56:9,14 | 18:13 20:15 |
| 11:10,15 | recognition 39:15 | relit 7:5 | reporter 1:13 4:15 | 21:11,16,25 |
| 12:7,23 | recognize 5:13 39:23 | remember 5:5,6 7:17 | 66:14 | 22:7,8 27:9 |
| 14:21 16:4 | recommend 37:14 51:19 | 9:6 10:14 | REPORTER'S 66:1 | 27:24 28:1 |
| 16:11 17:23 | 54:17 | 10:20,23 | reports 56:10 | 28:10 29:21 |
| 18:9,17,21 | recommend... 35:25 38:1 | 11:4 12:9 | reprimanded 56:17 | 30:18 32:24 |
| 22:12,13,16 | 43:11 51:3 | 16:6 27:24 | requirement 58:24 | 33:22 35:11 |
| 22:22 46:25 | 51:12,13,20 | 28:8 29:14 | requisition 40:2 41:5,7 | 35:18 37:23 |
| 47:12 63:9 | 51:24 52:2 | 31:20 34:25 | responsible 23:23 50:3 | 42:17 50:25 |
| 63:11 | 56:5 57:16 | 35:9,14 | 55:9 | 52:4,20 |
| racks 11:1 12:10 | 58:22 59:17 | 36:8,9,11 | result 56:17 | 54:5 59:13 |
| 17:5,22 | recommend... 49:16 | 36:13 43:1 | retrieved 16:18 19:6 | 61:2 64:2 |
| 21:17 23:1 | recommended 20:5 37:16 | 43:21 44:9 | 20:8 | right-hand 42:19 |
| 23:6 | 37:18 39:21 | 44:24 45:5 | review 23:20 24:2 | risk 54:21 55:22 |
| rare 53:1 | 43:15 55:25 | 45:6,8,16 | reviewed 27:10 | 62:20 |
| rate 9:7 45:11 | 58:16 59:14 | 45:20,23 | reviewing 56:21 | Road 1:10 2:14 |
| rated 49:19 50:18 | 60:14 | 49:3,6 | re-lamp 28:15 54:2 | roof 20:9,22 21:1 |
| 50:22 51:4 | recommending 41:17 43:25 | 50:25 54:19 | re-lamping 27:1 28:13 | 21:1 |
| 52:18 53:24 | 44:12 | 55:7 57:10 | 54:3,15,18 | room 5:10,12 6:3 |
| 54:2,10 | record 4:7,16 13:19 | 57:24 58:18 | 59:17 | 7:1,11,14 |
| reach 52:18 | 13:21 45:14 | 62:11,17 | rid 39:6 | 7:19 9:8,12 |
| reached 51:4 53:24 | 48:10,11 | 63:5,8 64:1 | | 9:16 10:7 |
| read 44:1 50:1 | 57:11,13 | 64:2 | | 10:11,15,24 |
| 55:3,16 | rectangle 21:1 | remind 26:5 | | 12:10 15:2 |
| 58:3 | reduce 55:21 | remove 38:10,13 | | 15:10,18 |
| reading 55:9 | refer 55:21 | 61:2 | | 16:5,11 |
| really | | removed 38:19 | | 17:6,23 |
| | | repair 28:19 32:23 | | 20:21,22 |
| | | replace | | 22:4,6,13 |



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77

| | | | | |
|--------------|--------------|-------------|--------------|--------------|
| 48:19 60:10 | 38:22 | 46:9 | sir | sound |
| 60:11,25 | scene | send | 4:8 | 16:12 45:14 |
| 61:3,12 | 62:23 | 56:14 58:19 | sitting | 52:20 |
| 62:24 64:4 | schedule | sense | 11:23 17:7 | sounds |
| roughly | 26:25 27:13 | 52:25 | 17:11 | 64:14 |
| 7:13 8:9 | 27:16,22,23 | separately | situation | source |
| 52:14 53:22 | 28:1,6 | 58:10 | 27:10 | 9:18 43:7 |
| 53:24 | 50:14 54:15 | series | skid | South |
| routine | 54:18 | 42:8 | 11:17 | 4:25 |
| 58:13 | Scott | set | skylights | specific |
| rubber | 64:12 | 54:14,17 | 9:13 | 37:18,19 |
| 7:1 10:6,10 | screwed | Seven | sleeve | 61:5 |
| 11:17,18,18 | 63:19 | 5:4 | 48:1,1,15,22 | specifically |
| 13:8 17:12 | second | several | 48:25 49:4 | 41:19 44:4 |
| 17:21 18:16 | 30:21 31:3 | 47:24 | Slow | 62:19 63:7 |
| 20:22 22:14 | 32:9 | shield | 53:4 | spot |
| rubbers | section | 55:23 | SMITH | 62:5 |
| 11:12 | 10:3,17,24 | shielding | 2:11 | stair |
| rule | 11:15 17:5 | 58:16 | smoke | 48:20 |
| 23:4,10 | 17:22 18:7 | shop | 8:14,15 9:22 | standing |
| running | 22:15 33:11 | 30:8,17 | socket | 15:13,17 |
| 23:14 | sections | short | 63:19 | staple |
| rupture | 18:12 33:11 | 50:15 | sodium | 41:6 |
| 46:16 47:10 | see | show | 26:7,9 31:17 | stapled |
| 49:12 | 5:19 15:2,16 | 14:20 19:5 | 38:21,22 | 41:2 |
| ruptured | 17:24 18:6 | 20:17 29:19 | 39:1,4,7 | start |
| 46:20 | 19:10 21:5 | 34:11 39:23 | sodiums | 4:19,21 |
| S | 21:21 22:12 | 47:18 | 26:10 | 20:17 27:6 |
| safety | 25:22 26:6 | showed | sold | 37:24 42:13 |
| 14:11 56:1,2 | 31:3,4,11 | 13:9 44:4 | 41:13 | 43:25 50:21 |
| sample | 32:2 34:21 | 47:20,24 | somebody | 54:11 |
| 49:2 | 35:16 37:21 | 48:3,18 | 13:1 16:22 | started |
| Saturday | 37:22 41:3 | showing | 30:11 32:10 | 5:9,16 27:9 |
| 65:3 | 42:7,10,14 | 30:12,25 | 36:17 41:20 | 27:12 28:2 |
| save | 42:21 48:2 | shown | 49:5 55:15 | 28:25 29:15 |
| 35:17 58:2 | 48:9,14 | 19:6,10,11 | 60:6 62:15 | starting |
| 58:10 63:6 | 49:8,11,19 | 33:4,15,23 | somewhere | 24:15 37:16 |
| saved | 49:20,25 | shows | 26:6 63:9 | state |
| 58:7 63:21 | seeing | 18:21 20:20 | Sonar | 4:7 |
| saw | 14:25 15:18 | 30:20 | 37:24 | stated |
| 62:22 | 16:19 44:6 | Shut | soot | 64:24 |
| says | 44:9 45:23 | 52:15 | 19:8 | statement |
| 33:13 41:22 | seen | side | sort | 49:25 |
| 42:8 49:11 | 24:24 34:11 | 6:10 7:6 | 12:15 15:24 | STATES |
| 49:18 | 64:16 | 16:19 17:17 | 32:20 36:4 | 1:1 |
| scattered | selected | 18:22 33:16 | 36:10 38:4 | steps |
| | 43:12 | 42:8,19 | 60:18 | 56:22 |
| | selection | | | |



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79

79

22:10 26:1
26:4 37:19
45:4,17
46:20 49:18
49:22

uses
55:14
usually
6:14

V

Valerie
64:13
various
11:12 23:18
vendor
34:3
verbatim
4:16
verification
37:6

verify

37:3
view

18:23 22:11

Vima

56:6,7,25
58:15 59:1

Vima's

57:16 59:8

visit

35:4 57:4

visits

34:24 57:11

57:14

vs

1:5

vulcanizing

30:24

W

wait

4:18

walk

35:1

wall

15:7,10 16:9

16:11 22:13
33:17

Walter

59:18

want

6:20 29:25

37:6 52:5

52:19 58:23

63:25

wanted

64:23

wanting

24:19

warning

46:15,19

47:9 49:24

55:4,9,15

55:16

warnings

49:9

warns

55:17

wasn't

27:3 64:16

watt

7:9 24:10

26:1 37:16

37:24 42:13

43:25 45:18

50:21 55:23

59:24

wattage

26:3 42:12

way

15:15 56:17

wearing

24:12,13

Wednesday

1:11

week

52:12,14,16

weekend

52:15 53:2

54:1

weekends

52:22 53:1,6

53:16 65:1

weeks

48:6 52:20

53:19,21

went

9:14 18:14

40:19,23

41:5,7,8

62:25

weren't

47:22

we're

4:11 6:17

16:19 20:9

22:6 26:9

59:4

we've

22:10 23:18

24:24

whatever

40:20

Whereupon

65:10

whether

5:24 27:13

28:6 30:2

40:14 43:23

45:3,17

whole

35:1 49:15

53:11

within

10:15 16:5

Witness

3:3 22:1

32:14,17

47:3,15

51:13 54:25

61:24 64:14

witnesses

3:1 10:5

woman

64:7

wondering

29:21

word

31:5,23

41:22

work

24:17 38:14

54:1 57:2

59:19 62:18

65:3

worked

14:6

working

29:3 52:23

53:7,13,15

works

14:6,7 29:7

wrapper

48:1

writing

57:17

written

23:8

wrote

41:20

Y

yeah

22:8 24:12

30:14 32:10

60:20

year

52:22

years

5:4 26:9,17

53:21,22,25

54:5

yellow

39:10

York

2:7

yourself

43:18

Z

Zurich

62:20 64:6

0

01773-1125

2:15

1

1

29:20 30:4

30:16 35:11

10

3:18 16:17

17:4 18:6

18:15,23

66:18

10:47

1:12

100

38:17

10005

2:7

11

1:11 3:19

18:16,21

11/7/02

52:8

12

3:20 19:5

12:51

65:11

120

52:16

121

4:25

13

3:21 20:7

21:5,22

133

52:19 53:19

14

3:16,17,18

3:19,20,21

3:22,22

14:15 22:11

22:23

16,000

50:22

2

2

34:11 36:1

2002

7:22 23:17

23:20 25:20



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80

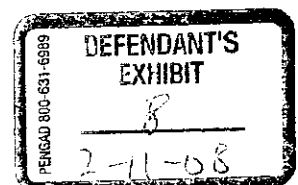
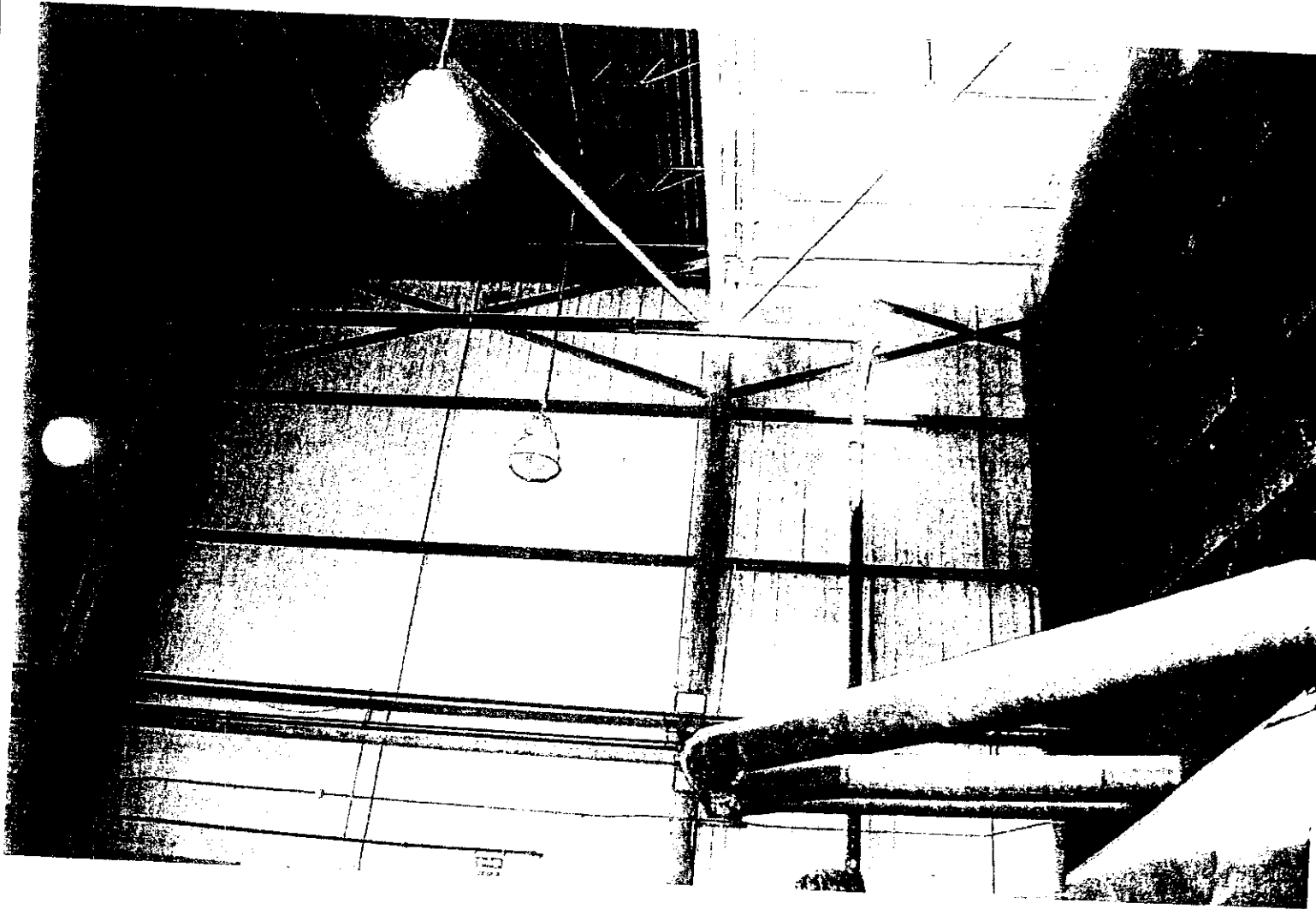
| | | | | |
|-------------|-------------|------|--|--|
| 26:22,24 | 50 | 987 | | |
| 27:8 29:1 | 37:24 | 1:10 | | |
| 32:16 36:15 | 51 | | | |
| 37:7 47:7 | 33:6,7,10 | | | |
| 60:2 | 52 | | | |
| 2003 | 33:8 | | | |
| 52:11,23 | 53 | | | |
| 53:6,17,19 | 60:7 | | | |
| 54:2 | 55 | | | |
| 2005 | 2:14 41:3 | | | |
| 54:4 | 56 | | | |
| 2006 | 41:3 | | | |
| 54:7 | 57 | | | |
| 2009 | 41:3,11 | | | |
| 1:12 | 58 | | | |
| 2010 | 41:3,11 | | | |
| 66:18 | | | | |
| 212 | 6 | | | |
| 2:8 | 6 | | | |
| 228-4446 | 47:18 48:2 | | | |
| 2:16 | 49:8 | | | |
| 24 | 617 | | | |
| 52:14 | 2:16 | | | |
| 29 | 64 | | | |
| 53:21 | 3:9 | | | |
| 3 | 7 | | | |
| 3 | 75 | | | |
| 10:6 15:12 | 42:12,13 | | | |
| 16:8 20:20 | 750 | | | |
| 21:2,15,20 | 7:8 37:16 | | | |
| 3:CV-08-47 | 43:25 45:18 | | | |
| 1:4 | 50:21 55:23 | | | |
| 39th | 59:24 | | | |
| 2:6 | 8 | | | |
| 4 | 8 | | | |
| 4 | 3:16 5:11 | | | |
| 3:7 39:23 | 14:15 25:10 | | | |
| 400 | 25:22 | | | |
| 26:1 | 805-3948 | | | |
| 450 | 2:8 | | | |
| 24:9 | 9 | | | |
| 5 | 9 | | | |
| 5 | 3:17 14:21 | | | |
| 45:22,23,25 | 18:15 | | | |



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